IN THE

United States Circuit Court of Appeals

FOR THE SIXTH CIRCUIT

No.....

THE CITY OF NORWALK, OHIO,
Defendant-Appellant.

vs.

THE EQUITABLE TRUST COMPANY OF NEW YORK, N. Y.,
Plaintiff-Appellee.

Appeal from the District Court of the United States, Northern District of Ohio, Western Division

---

TRANSCRIPT OF RECORD

REX F. BRACEY, *Norwalk, Ohio,*
G. RAY CRAIG, *Norwalk, Ohio,*
E. G. MARTIN, *Norwalk, Ohio,*
W. A. EVERSMAN, *Toledo, Ohio,*
WILLIAMS, EVERSMAN & MORGAN,
Toledo, Ohio,
Attorneys for Appellant

MILBANK, TWEED, HOPE & WEBB, *New York City,*
TRACY, CHAPMAN & WELLES, *Toledo, Ohio,*
Solicitors for Appellee

GEORGE D. WELLES, *Toledo, Ohio,*
EARL F. BOXELL, *Toledo, Ohio,*
Of Counsel for Appellee.

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DEFENDANT'S AFFIDAVIT UPON TAXATION OF COSTS

(Filed January 30, 1932)

State of Ohio, County of Lucas, ss.

Hugh C. Laughlin, being first duly sworn, says that he is one of the attorneys for the defendant in the above entitled cause and is associated with the firm of Williams, Eversman & Morgan, solicitors for the defendant. Affiant further says that the following disbursements have been made by and in behalf of the defendant and claims that the same should be assessed as part of the costs herein:

Payment to Lawrence Lennon for reporting service and one-half cost of original transcript of proceedings on hearing commencing November 12, 1930, as per statement attached marked "Exhibit A"	$125.00
Payment to Lawrence Lennon of one-half of cost of reporting service and one-half of cost of original transcript of proceedings on hearing December 8, 1930, as per statement attached marked "Exhibit B"	20.00
Payment to Lawrence Lennon for one-half of reporting service and one-half of cost of original transcript of proceedings on hearing commencing December 22, 1930, as per statement attached marked "Exhibit C"	66.00
Payment to Henry Young for services as Notary Public in the taking of the deposition of Charles A. Suhr, as per statement attached to said deposition on file with the court, copy of which is attached hereto marked "Exhibit D"	25.50
Payment to Francis Connolly for reporting service and transcribing deposition of Charles A. Suhr, as per statement attached to said deposition on file with the court, copy of which is attached hereto marked "Exhibit D"	33.45
Payment of witness fee to Charles Suhr on taking of his deposition, as per statement attached to the deposition, copy of which is attached hereto marked "Exhibit D"	2.00
Total	$271.95

Hugh C. Laughlin.

Sworn to before me and subscribed in my presence this 30th day of January, 1932.

Anita Clark,
(Seal) Notary Public in and for
Said County and State.

Service of a copy of the foregoing acknowledged this 30th day of January, 1932.

Earl F. Boxell, by L. H.,
Of Counsel for the Plaintiff.

EXHIBIT A

LAWRENCE LENNON
Reporter U. S. District Court
Toledo, Ohio

(Copy) December 6, 1930.

Messrs. Geddes, Schnettau, Williams,
Eversman & Morgan
Board of Trade Building, Toledo, Ohio.

In the matter of The Equitable Trust Company of New York, vs. City of Norwalk, Ohio; Equity 1040:

Proceedings upon hearing for a preliminary injunction, commencing November 12, 1930:

One-half cost of per diem reporting service, four days @ $15.00—$60.00	$ 30.00
One-half cost of original transcript of proceedings filed with court; 380 pps. @ 50c—$190.00	95.00
One complete copy of transcript furnished counsel; 380 pps. @ 25c	95.00
	$220.00

Payment received,
Lawrence Lennon.

EXHIBIT B

LAWRENCE LENNON
Reporter U. S. District Court
Toledo, Ohio

(Copy) December 13, 1931.

Messrs. Geddes, Schmettau, Williams,
Eversman & Morgan,
Board of Trade Building, Toledo, Ohio.

In the matter of The Equitable Trust Company of New York vs. City of Norwalk, Ohio; Equity 1040:

Proceedings upon hearing for a preliminary injunction, December 8, 1930:

One-half expense of reporting service, $10.00	$ 5.00
One-half cost of original transcript of proceedings filed with court; 60 pps. @ 50c—$30.00	15.00
One complete copy of transcript; 60 pps. @ 25c furnished counsel	15.00
	$35.00

Payment received,
Lawrence Lennon.

EXHIBIT C

LAWRENCE LENNON
Reporter U. S. District Court
Toledo, Ohio

(Copy) January 14, 1931.

Messrs. Geddes, Schmettau, Williams,
Eversman & Morgan,
Board of Trade Building, Toledo, Ohio.

In the matter of The Equitable Trust Company of New York vs. City of Norwalk, Ohio; Equity 1040:

Arguments of counsel, December 22, 1930, upon hearing of motion for a preliminary injunction:

One-half expense of reporting service, two days—$30.00	$ 15.00
One-half expense original transcript filed with court; 170 pps. @ 60c—$102.00	51.00
Expense of one complete copy furnished counsel; 170 pps. @ 30c	51.00
	$117.00

Payment received,
Lawrence Lennon.

EXHIBIT D

In the District Court of the United States for the Northrn District of Ohio, Western Division.

No. 1040 in Equity.

The Equitable Trúst Co., et al.,

Plaintiff,

vs.

City of Norwalk, Ohio,

Defendant.

COST BILL ATTACHED TO DEPOSITION OF CHARLES SUHR

COST BILL
(Gen. Code 11545)

Writing Depositions and Certificates at 10 Cents per 100 words	$25.00
Issuing Subpoenas, 50 cents each	$
Swearing witnesses, 4 cents each	$ .04
Clerk's Certificate	$
Postage	$ .46
	$25.50

Constable's Fees

Service of Subpoena	$
Mileage of Subpoena	$
Frances Conley, Stenographer	$33.45
	$58.95

Witness Fees

Seventy-five cents per day, and five cents per mile, traveling fees.

Charles Suhr	$ 2.00
	$ 2.00
Total cost of taking Depositions	$60.95

Received of City of Norwalk, defendant, the sum of $25.50 in full of my fees, as above specified, and also $... in full of Constable's fees. The witnesses' fees were paid by City of Norwalk, in the sum of $2.00, bill of Frances Conley, Stenographer, was also paid by the deft. City of Norwalk, $33.45.

Henry Young,
Notary Public.

(Seal)

PLAINTIFF'S EXHIBIT No. 1

In the District Court of the United States for the Northern District of Ohio, Western Division

No. 1040 In Equity

The Equitable Trust Company of New York,
Plaintiff,

vs.

City of Norwalk, Ohio,
Defendant.

STIPULATION

It is stipulated and agreed by and between counsel for plaintiff and defendant that this stipulation may be offered in evidence upon the trial of this case as proof of the facts stated herein without objection other than to the relevancy and materiality of such facts.

It is stipulated and agreed that on September 2, 1924, The Seaboard National Bank of the City of New York was, and for a long time prior thereto had been a banking corporation duly organized and existing under the laws of the United States, with its principal place of business at New York, New York, and was fully authorized to take and hold in trust mortgages of property owned in Ohio by Ohio corporations and to execute trusts imposed by such mortgages for the benefit of the holders of bonds issued thereunder; that on or about ....., 1929, said The Seaboard National Bank of the City of New York was merged with The Equitable Trust Company of New York, said merger being accomplished by proper action of said corporations' respective Boards of Directors and stockholders; that said The Equitable Trust Company of New York was at the time of said merger, and for some time prior thereto, a corporation duly organized and existing under and by virtue of the laws of the State of New York, with its principal place of business at New York, New York, for the purpose of engaging in a general banking and trust business, and was fully authorized to act as mortgagee and trustee under corporate mortgages with like powers, as above stated as belonging to said The Seaboard National Bank of the City of New York; that said The Equitable Trust Company was at all times during its existence a citizen and resident of the State of New

York; that by virtue of said merger The Equitable Trust Company of New York succeeded to and acquired all of the properties and rights formerly held by said The Seaboard National Bank of the City of New York, and particularly including all such properties, security and rights as were formerly acquired and up to that time held by said The Seaboard National Bank of the City of New York under and by virtue of a certain mortgage and deed of trust, dated July 1, 1924, and a supplemental mortgage to said mortgage and deed of trust, dated May 25, 1925, executed and delivered by the Ohio Electric Power Company to said The Seaboard National Bank of the City of New York, as Trustee, to secure first mortgage gold bonds of the Ohio Electric Power Company to be issued under said mortgage and deed of trust and supplemental mortgage thereto; which mortgage and deed of trust and supplemental mortgage thereto are recorded in the mortgage records of Huron County, Ohio, in Volume 95, pages 41 to 74, both inclusive, and Volume 95, pages 75 to 78, both inclusive, respectively, that on or about May 31, 1930, and for a long time prior thereto, The Chase National Bank of the City of New York was a corporation duly organized and existing under and by virtue of the laws of the United States, with its principal place of business at New York, New York, for the purpose of engaging in a general banking and trust business, possessing all of the powers in relation to corporate mortgages above described as belonging to The Seaboard National Bank of the City of New York, and The Equitable Trust Company of New York; that on or about May 31, 1930, said The Equitable Trust Company of New York was merged with The Chase National Bank of the City of New York, said merger being accomplished by proper action of said corporations' respective Boards of Directors and stockholders, and thereby The Chase National Bank of the City of New York succeeded to and acquired and now has all of the properties and rights formerly held by said The Equitable Trust Company of New York, and particularly including all such properties, security and rights up to that time held by said The Equitable Trust Company as successor to The Seaboard National Bank of the City of New York under said mortgage and deed of trust and supplemental mortgage thereto above described; and that The Chase National Bank is fully empowered and authorized by law to act as Trustee under said instruments.

It is further stipulated and agreed that from some time in the latter part of the year 1890 until about the

first of September, 1895, a generating plant was in existence in the City of Norwalk and was owned and in use by predecessors of the Ohio Electric Power Company during said period in generating electric current for distribution in said city; that from about September 1, 1895, until the present time, there has been in existence in the City of Norwalk another generating plant, which was constructed in the year 1895 by the Northern Electric Company and owned by said company, and which took the place in service of the plant above referred to; that said plant built in 1895 was in substantially continuous use in the generation of power for distribution in the City of Norwalk for about ten (10) years from September 1, 1895, and since that time to the present time has been in occasional use from time to time for standby and auxiliary service, the efficiency and capacity of which plant the City does not admit, but evidence on said subject may be introduced by either party hereto; that during said entire period from the year 1890 to the present time, there has been in the streets and public places of the City of Norwalk an electrical distribution system connected at all times with either one or the other of the generating plants above referred to, and that said electrical distribution system since the year 1890 has been continuously operated by the Ohio Electric Power Company and its predecessors in possession in the City of Norwalk in serving private consumers, and during the period from 1890 to 1915 was also in service for street lighting and the lighting of public offices.

It is further stipulated and agreed that in each and every one of the years beginning with 1911 to the present time, the Ohio Electric Power Company and its respective predecessors in possession since 1910 have duly reported, among other properties situated in the State of Ohio, their properties situated in the City of Norwalk to the proper taxing authorities of the State of Ohio for the assessment of taxes; that in each of said years, taxes have been assessed against said properties by the proper authorities of the State of Ohio; that the taxes so levied and assessed against the Ohio Electric Power Company and its predecessors in possession in respect of properties in the City of Norwalk, Ohio, have been paid by said Company and said predecessors to the proper authorities; that during the years 1911 to 1929, both inclusive, the tax rate per thousand dollars of valuation of real and personal property (not including any value for franchises) in the City of Norwalk, Ohio, as fixed by the proper taxing authorities of Huron County, Ohio, and

the valuation of the said real and personal property of said Company and its predecessors in said city, as fixed by the proper taxing authorities of the State of Ohio, are shown by the following table:

Year	Tax Rate per Thousand of City of Norwalk	Valuation
1911	4.112	300.00
1912	5.70	6,730.00
1913	5.60	6,830.00
1914	5.786	12,330.00
1915	5.70	12,730.00
1916	5.32	12,730.00
1917	5.32	12,730.00
1918	4.84	12,730.00
1919	5.10	12,730.00
1920	5.44	12,730.00
1921	8.17	9,050.00
1922	6.90	9,050.00
1923	7.10	4,300.00
1924	6.70	4,300.00
1925	6.20	13,800.00
1926	5.85	12,370.00
1927	5.90	34,440.00
1928	5.55	27,500.00
1929	5.55	33,900.00

It is further stipulated and agreed that in each and every one of the years above named, the City of Norwalk, Ohio, received through the County Treasurer of Huron County, Ohio, its share, based on the tax rates above stated, of all taxes collected upon all real and personal property located in the City of Norwalk.

It is further stipulated and agreed that the population of the City of Norwalk, Ohio, as shown by the United States Census, is and has been as follows:

Year	Number
1890	7195
1900	7074
1910	7858
1920	7379
1930	7775

Geo. D. Welles,
Counsel for Plaintiff.

W. A. Eversman,
Counsel for Defendant.

PLAINTIFF'S EXHIBIT No. 2

IN THE DISTRICT COURT OF THE UNITED STATES FOR THE NORTHERN DISTRICT OF OHIO, WESTERN DIVISION

No. 1040 In Equity

The Equitable Trust Company of New York,
Plaintiff,

vs.

City of Norwalk, Ohio,
Defendant.

STIPULATION

It is hereby stipulated and agreed by and between counsel for plaintiff and defendant that exhibits marked "Approved as to form" by counsel for both parties may be offered in evidence without objection other than to the relevancy and materiality of such exhibits, and it is further agreed that the proceedings set forth in said exhibits occurred and that all of the parties thereto were duly constituted and that in all cases where execution and delivery would be required to make effective any instrument represented by any such exhibit, said execution and delivery did occur by and to the parties whose names appear on said exhibits, and in all cases where filing and recording is shown on such exhibits such filing and recording in accordance with such statements of filing and recording shall be deemed to have occurred. It is agreed that the headings on such exhibits are for identification purposes only. Each of the parties to this case waives as to all such exhibits the requirements as to certification of Title 28 U. S. C. A. 687 and 688.

Earl F. Boxell,
Of Attorneys for Plaintiff.

G. Ray Craig,
W. A. Eversman,
Attorneys for Defendant.

PLAINTIFF'S EXHIBIT No. 3

O.K. as to form—E. F. B., H. C. L.

ARTICLES OF INCORPORATION OF THE INCANDESCENT LIGHT & POWER COMPANY OF NORWALK, OHIO

THE INCANDESCENT LIGHT AND POWER COMPANY OF NORWALK, OHIO

The undersigned, D. H. Fox, Thomas Dinsmore, E. D. Sawyer, Charles Suhr, Eugene Smith and David King, citizens of the State of Ohio, hereby associate themselves to become a body corporate in accordance with the laws of said State under the following articles:

1. The name of the said corporation shall be The Incandescent Light and Power Company.

2. Said corporation shall be located and its principal business shall be located at Norwalk, Huron County, Ohio.

3. The purpose for which said corporation is to be formed is for the furnishing to the citizens of Norwalk and vicinity electric lighting of both arc and incandescent, electric and steam power and steam and electricity for heating, for profit.

4. The capital stock of said corporation shall be Twenty-five thousand dollars divided into two hundred and fifty shares of one hundred dollars each.

In witness whereof, they hereunto set their respective hands, this 7th day of March, 1891.

D. H. Fox
Thos. Dunmore
E. D. Sawyer
Charles Suhr
Eugene Smith
D. C. King.

State of Ohio, Huron County, Ohio, ss.-

On this 7th day of March, A. D. 1891, personally appeared before me the undersigned, a Notary Public within and for said County, the above named D. H. Fox, Eugene Smith, D. C. King, Thos. Dunmore, and Charles Suhr, who each severally acknowledged the signing of the foregoing articles of incorporation to be their free act and deed for the uses and purposes therein mentioned.

Witness my hand and seal on the day and year last aforesaid.

F. H. Jones,
Notary Public.

(Seal)

The State of Ohio, Huron County, ss.

I, R. K. Rood, Clerk of the Court of Common Pleas, being a Court of Record, within and for the County and State aforesaid, do hereby certify that F. H. Jones, Esq., was, at the date of taking the annexed ..... a Notary Public within and for said County, duly authorized to take the same; that I know his handwriting, and verily believe that the signature to said certificate is genuine; and that the annexed instrument is executed and acknowledged according to the laws of the State of Ohio.

In testimony whereof, I have hereunto set my hand and affixed the seal of said Court at Norwalk, this 7th day of March, A. D. 1891.

R. K. Rood,
Clerk.

(Seal)

The State of Ohio, Cuyahoga County, ss.

On this 9th day of March, A. D. 1891, personally appeared before me the undersigned, Notary Public within and for said County, the above named E. D. Sawyer, who acknowledged the signing of the foregoing articles of incorporation to be his free act and deed for the uses and purposes therein mentioned.

Witness my hand and seal on the day and year last aforesaid.

W. H. Clifford,
Notary Public.

(Seal)

The State of Ohio, Cuyahoga County, ss.

I, Levi E. Meacham, Clerk of the Court of Common Pleas, a Court of Record of Cuyahoga County, aforesaid, do hereby certify that W. H. Clifford, before whom the annexed acknowledgment was taken, was at the date thereof a Notary Public, in and for said County, duly authorized by the laws of Ohio to take the same; that I am well acquainted with his handwriting, and believe his signature thereto is genuine; and that the annexed instrument is executed according to the laws of the State of Ohio.

In Testimony Whereof I hereunto subscribe my name and affix the seal of said court, at Cleveland, this 9th day of March, A. D. 1891.

Levi E. Meacham,
Clerk.

(Seal)

CERTIFICATE OF SUBSCRIPTION

Norwalk, Ohio, March 12th, 1891.

To the Secretary of State, Columbus, Ohio:

We, the undersigned incorporators of The Incandescent Light and Power Company, do hereby certify that on the 12th day of March, 1891, all the incorporators of said Company did order, in writing, that books be opened for subscriptions to the capital stock of said Company, at its office in Norwalk, Ohio, on the 12th day of March, 1891, at 10 o'clock A.M.; and, at the same time waive, in writing, the notice by publication of the time and place of such opening of books of subscription, required by law; and, further, said books having been opened at the time and place ordered, that ten per cent. of the capital stock of said Company has been subscribed.

Thos. Dunmore
D. C. King,
E. D. Sawyer
Charles Suhr
Eugene Smith
D. H. Fox
Incorporators.

United States of America, State of Ohio,
Office of the Secretary of State.

I, Clarence J. Brown, Secretary of State of the State of Ohio, do hereby certify that the foregoing is an exemplified copy, carefully compared by me with the original record now in my official custody as Secretary of State, and found to be true and correct, of the Articles of Incorporation of The Incandescent Light and Power Company, filed in this office on the 11th day of March, 1891; Vol. 48, Page 237; and Certificate of Subscription of said Company filed in this office on the 30th day of March, A. D. 1891, and recorded in Volume 50, Page 530, of the Records of Incorporations.

Witness my hand and official seal, at Columbus, this 30th day of June, A. D. 1927.

Clarence J. Brown,
(Seal) Secretary of State.

PLAINTIFF'S EXHIBIT No. 4

O.K. as to form—E. F. B., H. C. L.

Deed of Assignment, dated Feb. 25, 1893, from The Incandescent Light & Power Co. to F. H. Jones and J. W. Foster, Assignees.

The Incandescent Light and Power Co., Assignors,
F. H. Jones and J. W. Foster, Assignees.

Proceedings had in the Probate Court of Huron County, Ohio, in the year of our Lord One Thousand Eight Hundred and Ninety-three, before George T. Thomas, Probate Judge within and for said county. Be it remembered that on the 25th day of February, A. D. 1893, F. H. Jones and J. W. Foster as assignees of The Incandescent Light and Power Co. filed herein the Original Deed of Assignment to them by said Incandescent Light and Power Co. made for the benefit of their creditors, which said deed of assignment and the proceeding had therein are in the words and figures following, to-wit:

DEED

Know all men by these presents that The Incandescent Light and Power Company, a corporation organized and existing under the laws of Ohio, for the consideration of one dollar, and the trusts hereinafter named, received to its full satisfaction of F. H. Jones and J. W. Foster hereby sells, assigns, grants and conveys, to said F. H. Jones and J. W. Foster all its lands, tenements, goods, chattels, choses in action, claims, interests, and property of every nature and kind whatsoever; to have and to hold the same unto said F. H. Jones and J. W. Foster in trust, nevertheless to convert the same into money and dispose of the same for the benefit equally of all creditors of said Corporation according to the laws of Ohio relating to insolvents. In Witness Whereof, the said corporation has caused its corporate seal to be hereto affixed, and the instrument to be executed by its president and secretary on this 25th day of February, A. D. 1893, by order of its board of directors duly adopted at a meeting held on the 25th day of February, A. D. 1893.

The Incandescent Light and Power Co.,
per D. W. Vail,
per Chas. Suhr, Sec'y.

Signed, sealed and delivered in presence of:
Charles E. Bloomer
F. M. Chaffee.

The State of Ohio, Huron County, ss.

Before me personally appeared the Incandescent Light and Power Company by D. W. Vail, its president, and Charles Suhr, its secretary, who acknowledged that they did sign and execute the foregoing instrument for and on behalf of said Corporation, and did affix said corporate seal by virtue of a resolution adopted by the board of directors of said corporation on the 25th day of February, A. D. 1893, and acknowledge that the same was the free act and deed of said Corporation of themselves as president and secretary thereof respectively.

In Witness Whereof, I hereunto set my hand and official seal this 25th day of February.

Charles E. Bloomer,
Notary Public.

Probate Court, Huron County, Ohio

J. E. February 25th, 1893.

On the 25th day of February, A. D. 1893, at 9:05 o'clock A. M. came F. H. Jones and J. W. Foster and filed in this court a deed of assignment to them from the Incandescent Light and Power Company of Norwalk, Huron County, Ohio, in trust for the benefit of its Creditors.

PROBATE COURT

The State of Ohio, Huron County.

I, J. M. Bechtol, sole Judge and Ex-officio Clerk of the Probate Court, within and for the aforesaid County and State do hereby certify that the foregoing is a true and correct copy of the original Deed of Assignment in the Matter of the Incandescent Light & Power Company and also Journal Entries in the same matter now on file in said Probate Court.

It Witness Whereof, I have hereunto set my hand and affixed the seal of said Court at Norwalk, Ohio, this 29th day of August, A. D. 1927.

J. M. Bechtol,
Judge and Ex-officio Clerk,
By Beatrice Lamm,
Dpy. Clk.

(Seal of Probate Court)

PLAINTIFF'S EXHIBIT No. 5

O.K. as to form—E. F. B., H. C. L.

Deed From The Incandescent Light and Power Co., (By Assignees) to George P. Jones, et al., Dated March 7, 1895.

Know All Men By These Presents, That whereas, J. W. Foster and F. H. Jones, the duly appointed and qualified assignees of The Incandescent Light & Power Company, an insolvent, on the 29th day of March, 1893, filed their certain petition in the Probate Court in and for Huron County, Ohio, against The Norwalk Foundry & Machine Company, et al., praying for an order to sell certain real estate, personal property and premises hereinafter described. And whereas, such proceedings were had therein that an order was made by said Court directing said assignees to sell the real estate and personal property hereinafter described at public auction upon the terms in said order set forth. And whereas, on the 1st day of March, 1895, due and legal notice of the time and place of sale having been given for thirty days as by said order provided, the said assignees sold the property and premises hereinafter described to George P. Jones and Mayme C. Foster for the sum of Thirteen Thousand Dollars, which sale was reported to said Court, and was by said Court examined, approved and confirmed on the 11th day of March, 1895, and said assignees were directed to execute and deliver to said purchasers a good and sufficient deed for the premises and property purchased by them, conveying the same to them in fee simple, free from all liens on the same for all debts due by said assignor. Now, therefore, we, J. W. Foster and F. H. Jones as assignees of The Incandescent Light and Power Company in consideration of the premises, of the authority vested in us by law, of the order of said Probate Court, and of the sum of Thirteen Thousand Dollars to us paid and secured to be paid by the said George P. Jones and Mayme C. Foster, have sold and do hereby bargain, sell and transfer and convey to the said George P. Jones and Mayme C. Foster, their heirs and assigns forever the aforesaid real estate and personal property, viz: consisting of an electric light plant consisting of a leasehold estate for the period of five (5) years from the 22nd day of September, 1890, with privilege of renewal of the following described property:

Situated in the County of Huron, City of Norwalk and State of Ohio, and being forty (40) feet off the east

end of lot 934, situated on the southeast corner of Benedict Avenue and Seminary Street in said City, with privilege of drive on the southeast end of said Lot No. 934, together with the buildings thereon, boilers, engines, pumps, dynamos, street wires, poles, lamps and all appliances, machines and articles used in and about the business of furnishing arc and incandescent lighting and heating and all franchises, patronage, good will and rights of said business, included in the above is the following: 1 100 H. P. boiler, John T. Noye; 2 90 H. P. boilers, J. C. McNiel Co.; 2 Duplex steam pumps, with connections; 1 heater, 1 exhaust receiver, all connections, pipes, etc. Engines: 1 209 H. P. John T. Noye; 1 150 H. P. John T. Noye; 1 65 H. P. Skinner Engine Company; 1 main shaft with clutch, pulleys, belts, etc., Dynamos, 1 No. 7 30 light Brush arc dynamo, 2 No. 8 65 light Brush arc dynamos, arc switch board with all connections, 1 650 light T. H. alternator with exciter, 2 500 light Westinghouse alternators with exciters, 2 incandescent switch boards with instruments and all connections, 3 Brush Arc Dials, 2 Exhaust fans, 125 brush Adams arc lamps, all poles and wire belonging to said plant, with all fixtures and appurtenances thereunto belonging.

To Have and To Hold the same to the said George P. Jones and Mayme C. Foster, their heirs and assigns forever, free from all liens on the same for all debts due by said Assignor.

In witness whereof, we, J. W. Foster & F. H. Jones, as assignees of The Incandescent Light & Power Company have hereunto set our hands and seals, this 7th day of March, 1895.

J. W. Foster, (Seal)
F. H. Jones, (Seal)
Assignees of The Incandescent
Light & Power Company.

Signed, sealed and delivered in presence of us:
J. E. Erf,
Mary L. Timbs.

The State of Ohio, Huron County, ss.

Be It Remembered that on the 11th day of March, in the year of our Lord one thousand eight hundred and ninety-five, before me the subscriber, a Notary Public in and for said County, personally came J. W. Foster and F. H. Jones, Assignees of The Incandescent Light and Power Company and acknowledged the signing and sealing of the foregoing deed to be their voluntary act and deed for the uses and purposes therein mentioned. In

testimony whereof, I have hereunto subscribed my name affixed my notarial seal on the day and year last aforesaid.

J. E. Erf,
(Seal) Notary Public, Huron County, Ohio.

The above deed was received for record by the Recorder of Huron County, Ohio, March 11, 1895, at 9:45 A. M., and recorded March 13, 1895, in Deed Records of Huron County, Ohio, Vol. 51, pages 319 and 320.

PLAINTIFF'S EXHIBIT No. 6

O.K. as to form—E. F. B., H. C. L.

THESE ARTICLES OF INCORPORATION

of

THE NORTHERN ELECTRIC COMPANY

Witnesseth, That we, the undersigned, all of whom are citizens of the State of Ohio, desiring to form a corporation, for profit, under the general corporation laws of said State, do hereby certify:

First. The name of said corporation shall be The Northern Electric Company.

Second. Said corporation is to be located at Norwalk, in Huron County, Ohio, and its principal business there transacted.

Third. Said corporation is formed for the purpose of manufacturing and producing electricity for light, heat and power.

Fourth. The capital stock of said corporation shall be Twenty-five thousand Dollars, ($25,000.00), divided into Two Hundred and Fifty (250) shares of One Hundred Dollars ($100.00) each.

In Witness Whereof, We have hereunto set our hands, this 30th day of April, A. D. 1895.

George P. Jones
Park Foster
Mayme C. Foster
Burton P. Foster
John W. Foster

Norwalk, Ohio, June 25, 1897.

To the Honorable Secretary of State,
Columbus, Ohio.

The Northern Electric Company and Parks Foster, its President and B. P. Foster, its Secretary, hereby certify that at a meeting of its stockholders, held on the 23rd day of Dec., 1896, notice of which had been duly waived, the following amendments of its articles of incorporation were adopted by vote of all its stockholders.

"Resolved, That the articles of incorporation of The Northern Electric Company be and they are hereby amended by changing the name of said company to The Northern Gas and Electric Company," and,

"Resolved, That the articles of incorporation of The Northern Electric Company be and they are hereby amended so as to modify and enlarge the objects and purposes for which said company was organized, by authorizing and empowering said company to sell or otherwise dispose of electricity for light, heat and power purposes, and to manufacture and sell or otherwise dispose of gas for fuel, heating, power or other purposes, and to acquire a plant and lay conductors therefor through the streets, alleys and other public places of the city of Norwalk, Ohio, and other places in said City, and to sell coke and all other products incidental to such manufacture."

and that said amendments, as above set forth, are true copies of the original amendments.

In witness whereof, said company has caused its name and corporate seal to be hereto affixed, and this certificate to be signed by its President and Secretary, on the day and year first above mentioned.

The Northern Electric Company
By Parks Foster,
President
B. P. Foster
(seal) Secretary

United States of America, State of Ohio,
Office of the Secretary of State.

I, Clarence J. Brown, Secretary of State of the State of Ohio, do hereby certify that the foregoing is an exemplified copy, carefully compared by me with the original record now in my official custody as Secretary of State, and found to be true and correct, of the Articles of Incorporation of The Northern Electric Company filed the 17th day of May, 1895; Vol. 67, Page 294; and Certificate of Amendment of The Northern Gas and Electric Company filed in this office on the 16th day of July A. D. 1897 and recorded in Volume 72, Page 220, of the Records of Incorporations.

Witness my hand and official seal, at Columbus, this 14th day of January, A. D. 1930.

Clarence J. Brown,
Secretary of State.

PLAINTIFF'S EXHIBIT No. 7

O.K. as to form—E. F. B., H. C. L.

Deed from George P. Jones, et al., to The Northern Electric Company, dated May 20, 1895.

Know All Men by These Presents That we, George P. Jones of the County of Hancock and Mayme C. Foster of the County of Huron and State of Ohio, for and in consideration of the sum of Eighteen Thousand Dollars to us in hand paid, the receipt whereof is hereby acknowledged, have granted, bargained and sold and by these presents do grant, bargain, sell, convey and confirm unto The Northern Electric Company of the County of Huron and State of Ohio, its successors, heirs and assigns, all the following described real estate, with the appurtenances, situate in the City of Norwalk, County of Huron and State of Ohio and bounded and described

as follows, viz: consisting of an Electric Light plant, consisting of a leasehold estate for the period of five (5) years from the 22" day of September 1890 with privilege of renewal of the following described property, situated in the County of Huron, City of Norwalk and State of Ohio, and being forty (40) feet off the east end of Lot 934, situated on the southeast corner of Benedict Avenue and Seminary Street in said City, with privilege of drive on the southeast end of said lot 934, together with the buildings thereon, boilers, engines, pumps, dynamos, street wires, poles, lamps and all appliances, machines, and articles used in and about the business of furnishing arc and incandescent lighting and heating and all franchises, patronage, good will and rights of said business, included in the above is the following: 1 100 H.P. Boiler John T. Noye, 2 90 H.P. boilers, J. C. McNiel Co., 2 duplex steam pumps with connections, 1 Heater, 1 exhaust receiver, all connections, pipes, etc., Engines: 1 209 H.P. John T. Noye, 1 150 H.P. John T. Noye; 1 65 H.P. Skinner Engine Company, 1 main shaft with clutch, pulleys, belts, etc. Dynamos. 1 No. 7 30 light Brush arc dynamo, 2 No. 8 65 light Brush arc dynamos, arc switchboard with all connections. 1 650 light T. H. alternator with exciter, 2 500 Westinghouse alternators with exciters, 2 incandescent switchboards, with instruments and all connections. 3 Brush arc dials, 2 exhaust fans, 125 Brush Adams arc lamps, all poles and wires belonging to said plant, with all fixtures and appurtenances thereto belonging, and all the estate, title and interest of the said Grantors, either in law or in equity, of, in and to the said premises, together with all the privileges and appurtenances to the same belonging, and all the rents, issues and profits thereof.

To Have and to Hold the same to the only proper use of the said Grantee, its successors, heirs and assigns forever, and the said George P. Jones and Mayme C. Foster, for themselves and for their heirs, executors and administrators, do hereby covenant with the said Grantee, its successors, heirs and assigns, that they are the true and lawful owners of the said premises, and have full power to convey the same, that the title so conveyed is clear, free and unincumbered, and further, that they do warrant and will defend the same against all claim or claims of all persons whomsoever, except a mortgage on said property given by said Grantors to J. W. Foster and F. H. Jones, assignees of The Incandescent Light and Power Company to secure two (2) promissory notes executed by said Grantors to said As-

signees, each for the sum of Four Thousand Three Hundred and Thirty three and 33/100 Dollars ($4333.33), one due in six (6) months from date, and the other due one year from date, each dated at Norwalk, Ohio, on or about the 1st day of March, 1895, which mortgage the Grantee hereby assumes and agrees to pay as part of the consideration for this conveyance.

In witness whereof, the said George P. Jones, Mayme C. Foster, have hereunto set their hands, this 20th day of May in the year of our Lord One Thousand eight hundred and ninety five.

George P. Jones,
Mayme C. Foster.

Signed and acknowledged in presence of us:
F. H. Jones
Mary L. Timbs.

State of Ohio, ... County, ss.

Be it Remembered that on the 21" day of May in the year of our Lord one thousand eight hundred and ninety five, before me, the subscriber, a Notary Public in and for said County, personally came George P. Jones and Mayme C. Foster, the Grantors in the foregoing deed and acknowledged the signing thereof to be their voluntary act for the uses and purposes therein mentioned. In testimony whereof, I have hereunto subscribed my name and affixed my Notarial seal on the day and year last aforesaid.

F. H. Jones,
(Seal) Notary Public.

The above deed was received for record by the Recorder of Huron County, Ohio, August 27, 1895 at 2 P.M., and recorded August 27, 1895 in Deed Records of Huron County, Ohio, Volume 52, pages 51 and 52.

PLAINTIFF'S EXHIBIT No. 8

O.K. as to form—E. F. B., H. C. L.

THESE ARTICLES OF INCORPORATION
of
THE NORWALK GAS AND ELECTRIC COMPANY

Witnesseth, That we, the undersigned, all of whom are citizens of the State of Ohio, desiring to form a corporation, for profit, under the general corporation laws of said State, do hereby certify:

First. The name of said corporation shall be The Norwalk Gas and Electric Company.

Second. Said corporation is to be located at Norwalk in Huron County, Ohio, and its principal business there transacted.

Third. Said corporation is formed for the purpose of manufacturing, producing, furnishing and selling gas and electricity, or either, for light, heat, power and other purposes, and for doing all things incident to said purpose.

Fourth. The capital stock of said corporation shall be One Hundred and Twenty-five Thousand Dollars ($125,000.00), divided into One Thousand Two Hundred and Fifty (1,250) shares of One Hundred Dollars ($100.00) each.

In Witness Whereof, We have hereunto set our hands, this seventeenth day of April, A. D. 1900.

F. H. Jones,
Ed L. Young,
J. A. Nestor,
A. V. Andrews,
A. L. Osborn,
S. E. Crawford,
E. W. VanDusen.

The State of Ohio, County of Huron, ss.

Personally appeared before me, the undersigned, a Notary Public in and for said county, this 19th day of April, A. D. 1900, the above named F. H. Jones, Ed L. Young, J. A. Nestor, A. V. Andrews, A. L. Osborn, S. E. Crawford and F. W. VanDusen who each severally acknowledged the signing of the foregoing articles of incorporation to be his free act and deed, for the uses and purposes therein mentioned.

Witness my hand and official seal on the day and year last aforesaid.

Charles R. Summers,
Notary Public.

(Seal)

The State of Ohio, County of Huron, ss.

I, C. D. Miles, Clerk of the Court of Common Pleas, within and for the county aforesaid, do hereby certify that Charles R. Summers whose name is subscribed to the foregoing acknowledgment as a Notary Public was at the date thereof a Notary Public, in and for said county, duly commissioned and qualified, and authorized as such to take said acknowledgment; and further that I am well acquainted with his handwriting, and believe that the signature to said acknowledgment is genuine.

In Witness Whereof, I have hereunto set my hand and affixed the seal of said Court, at Norwalk, O., this 19 day of April, A. D. 1900.

C. D. Miles,
Clerk.

(Seal)

United States of America, State of Ohio, Office of the Secretary of State.

I, Clarence J. Brown, Secretary of State of the State of Ohio, do hereby certify that the foregoing is an exemplified copy, carefully compared by me with the original record now in my official custody as Secretary of State, and found to be true and correct, of the Articles of Incorporation of the The Norwalk Gas and Electric Company filed in this office on the 20th day of April, A. D. 1900, and recorded in Volume 81, page 522, of the Records of Incorporations.

Witness my hand and official seal, at Columbus, this 9th day of April, A. D. 1927.

Clarence J. Brown,
Secretary of State.

(Seal)

PLAINTIFF'S EXHIBIT No. 9

O.K. as to form—E. F. B., H. C. L.

Deed from The Northern Gas and Electric Company to The Norwalk Gas and Electric Co., Dated May 8, 1900

Know All Men By These Presents that The Northern Gas and Electric Company, a corporation duly organized and existing under the laws of the State of Ohio, the Grantor, for one dollar and other valuable considerations, received to its full satisfaction from The Norwalk Gas and Electric Company, a corporation duly organized and existing under the laws of the State of Ohio, the Grantee, does give, grant, bargain, sell and convey unto said Grantee, its successors and assigns, the following described premises: Situated in the City of Norwalk, County of Huron and State of Ohio, and described as follows:

1. All that part of the east half of Great Lot No. 95 in Section 4 Norwalk Township, bounded on the north by the right of way of The Wheeling & Lake Erie Railroad Company, on the west by the west line of the east half of said Lot No. 95; on the south by the north line of a right of way sixty-six feet wide running parallel with said Railroad right of way and 132 feet (measured at right angles) distant therefrom, and on the east by a line running parallel with said West line of said East one-half of lot 95 and 278.04 feet easterly therefrom. Also a right in common with C. H. Gallup and Lizzie F. Gallup, their heirs and assigns, to said sixty-six foot right of way, viz: A strip of land sixty-six feet wide running from Woodlawn Avenue on the east to the west line of said east half of lot ~~No.~~ 95 on the west, the north boundary line of said strip of land being distant (measured at right angles) 132 feet from the south line of said Wheeling & Lake Erie Railroad Company's right of way and running parallel therewith.

2. Also a leasehold of four by ten rods off the West end of said sixty foot strip, for description of land and extent of title leased, reference is hereby made to lease record Vol. 2 pages 12 and 13 Huron County, Ohio.

And also all the gas and electric systems of the Grantor, all its plants, gas works, power stations, machinery, enginees, boilers, dynamos, electric machines, gas machines, meters, lamps and other appliances and apparatus, poles, lines, wires, pipes, lamp-posts, pipe line, tubing gauges, cocks, valves, meter-testers, stop boxes,

transformers, switch-boards, and all other appliances, apparatus, and appurtenances of every kind and description to the said plants and property belonging or in any wise appertaining. And also all powers, right, franchises and privileges of the Grantor incident or necessary to the ownership, maintenance, and operation of the said plants, gas and electric systems, lines, pipes, and property aforesaid. And also all rights of way, licenses, easements, leases, leasehold interest, buildings, erections, superstructures, machine shops, tools, implements, machinery and supplies, together with the good will and all contracts of the Grantor. And also all and singular the tenements, hereditaments and appurtenances belonging or in any wise appertaining unto the aforesaid property, rights, franchises and privileges, and the reversions, remainders, rents, issues and profits thereof. And also all the estate, right, title, interest, property, possession, claim and demand whatsoever, as well in law as in equity, of the Grantor, of, in and to the above described premises, property, rights, franchises and privileges and every part thereof with the appurtenances. It being the intention of the Grantor to convey to the Grantee, its successors and assigns, all of its property, real, personal, and mixed, rights, franchises and privileges, excepting only two parcels of land, in the City of Norwalk, Ohio, one fronting two rods on the north side of League Street in said City, and the other being known as Inlot No. 284 in the plat of the Homestead League, and the personal property and fixtures situated on said two parcels of land, conveyed by deed of even date herewith to J. L. Fuller.

To Have and To Hold the above granted and bargained premises, rights, franchises and privileges unto the Grantee, its successors and assigns forever. And the said Grantor does, for itself and its successors, covenant with the said Grantee, its successors and assigns, that at and until the ensealing of these presents, it is well seized of the above described premises, property, rights, franchises and privileges, as a good and indefeasible estate in fee simple or an equivalent estate, according to the nature of the property conveyed, and has good right to bargain and sell the same in manner and form as above written; that the same are free and clear from all incumbrances whatsoever, and that it will warrant and defend the same with the appurtenances thereunto belonging to the said Grantee, its successors and assigns forever, against all lawful claims and demands whatsoever.

In witness whereof, the Northern Gas and Electric Company, by its Vice President and Secretary, thereunto

lawfully authorized by action of its stockholders and directors, has hereunto set its corporate name and affixed its corporate seal, this 8th day of May, A. D. 1900.

The Northern Gas and Electric Company,
By W. S. Hayden, Vice President,
Frank J. Smith, Secretary. (Seal)

Signed, sealed and delivered in presence of:
Mark P. Squire
D. W. Myers.

The State of Ohio, Cuyahoga County, ss.

Before Me, the undersigned, a Notary Public within and for said County in the State aforesaid, personally appeared the above named, W. S. Hayden and Frank J. Smith to me known and known to me to be respectively the Vice President and Secretary of The Northern Gas and Electric Company, the corporation which executed the foregoing instrument, who acknowledged that they did sign and seal said instrument as such Vice President and Secretary, respectively, for and on behalf of said corporation and that the same is their free act and deed individually and as such respective officers, and the free and corporate act and deed of said The Northern Gas and Electric Company.

In witness whereof, I have hereunto set my hand and official seal, this 8th day of May, A. D. 1900.

$100.00 U. S. R. stamp attached and cancelled.

Ernest H. Rowe,
(Seal) Notary Public.

The above deed was received for record by the Recorder of Huron County, Ohio, May 12, 1900, at 3:45 P.M., and recorded May 18, 1900, in Deed Records of Huron County, Ohio, Volume 58, pages 284, 285 and 286.

PLAINTIFF'S EXHIBIT No. 10

O.K. as to form—E. F. B., H. C. L.

ORGANIZATION AND FRANCHISE
OF
THE CLEVELAND AND SOUTH-WESTERN
TRACTION COMPANY

This Agreement of Consolidation, made and entered into on this 9th day of December A.D. 1902, by and between The Cleveland, Elyria and Western Railway Company, a corporation of the State of Ohio, and its Directors, party of the first part, and The Cleveland and Southern Railway Company, a corporation of the State of Ohio, and its Directors, party of the second part, each of said companies acting through and by the unanimous action and concurrence of their respective Boards of Directors.

Witnesseth: That Whereas, the laws of the State of Ohio provide, that whenever the lines, or authorized lines, of road of any street railroad Corporations or companies meet or intersect, or can be conveniently operated from one power house, or from a power house, or power houses, owned, under lease, or operated by one of such street railroad companies or corporations, or whenever any such line of any street railroad corporation or company and that of any railroad operated by electricity may be conveniently connected to be operated to mutual advantage, or whenever any such line of any street railroad corporation or company, or the railway of any company operated by electricity, can be conveniently operated from one power house, or from a power house, owned, under lease, or operated by one of such street railroad corporations or companies, or by any company or corporation the railway of which is operated by electricity, such corporations or companies, or any two or more of them, are authorized to consolidate themselves into a single corporation, provided they are not competing lines; and

Whereas, The Cleveland, Elyria and Western Railway Company now has and owns authorized lines of street railway from a point in the township of Brooklyn in the County of Cuyahoga and State of Ohio, at the intersection of Lorain Street with the westerly corporation line of the City of Cleveland, Ohio, to the following points, to-wit: a point in the hamlet of Rockport in the County of Cuyahoga and State of Ohio; a point in the Village of Berea in The County of Cuyahoga and State

of Ohio, a point in the Township of Norwalk in the County of Huron and State of Ohio, a point in the Village of North Amherst in the County of Lorain and State of Ohio, a point in the City of Lorain in the County of Lorain and State of Ohio, a point in the Village of Wellington in the County of Lorain and State of Ohio, a point in the Village of Grafton in the County of Lorain and State of Ohio; all of said lines of street railway being within the Counties of Cuyahoga, Lorain, Erie and Huron in the State of Ohio; and

Whereas, The Cleveland and Southern Railway Company, party of the second part, now has and owns an authorized line of electric railroad from a point in the Village of Berea in the County of Cuyahoga and State of Ohio, to a point in the City of Wooster, Wayne County, Ohio; all of said line of electric railroad being within the Counties of Cuyahoga, Medina and Wayne in the State of Ohio; and

Whereas, the lines of railway of the corporations parties hereto meet and intersect and are operated by electricity and are not competing lines and can be conveniently connected and operated to mutual advantage, and can be conveniently operated from power houses owned by one of said companies; and

Whereas, for the greater convenience of the public, and for the mutual advantage and benefit of the stockholders of each of said companies, the Directors of said companies have proposed, by and with the assent, approval and ratification of the stockholders of each of said companies, to be had in due form of law at meetings to be regularly called and held for that purpose, to unite and consolidate the capital stock, property and franchises of the said companies into one corporation;

Now, Therefore, the parties hereto, in conformity to the statute in such case made and provided, the said railroad companies acting under and in pursuance of the resolution of their Board of Directors, and upon the assent and ratification of the stockholders of said companies, to be had and made, as hereinbefore set forth, do hereby agree to and with each other to, and do hereby, unite and consolidate their said capital stock, railroads, property and franchises into one company, upon the following terms and conditions, to-wit:

First: The name of said consolidated company shall be The Cleveland and South-Western Traction Company.

Second: The officers of said company shall consist of a President, first Vice-President, second Vice-President, Secretary and Treasurer, whose places of residence shall be the State of Ohio.

Third: The number of Directors of said Company shall be eleven (11), whose places of residence shall be the State of Ohio, and the names and places of residence of the Directors of said Company who are to hold office until their successors are elected by the stockholders, at the meeting appointed by the stockholders, called to take this Agreement into consideration, pursuant to Section 3383 of the Revised Statutes of Ohio, are as follows:

A. H. Pomeroy, Berea, Ohio
F. T. Pomeroy, Cleveland, Ohio
M. J. Mandelbaum, Cleveland, Ohio
H. Q. Sargent, Cleveland, Ohio
L. M. Coe, Berea, Ohio
A. E. Akins, Cleveland, Ohio
F. L. Fuller, Cleveland, Ohio
W. H. Lamprecht, Glenville, Ohio
S. C. Smith, Cleveland, Ohio
M. A. Sprague, Berea, Ohio

Fourth: The names and residences of the officers of the company who shall remain in office until their successors are elected by the Board of Directors, to be elected at the meeting of the stockholders appointed as mentioned in the paragraph last above of this Agreement, and until their successors so elected are qualified, are as follows:

A. H. Pomeroy, President, Berea, Ohio
A. E. Akins, 1st Vice President, Cleveland, Ohio
S. C. Smith, 2nd Vice-President, Cleveland, Ohio
E. F. Schneider, Secretary, Cleveland, Ohio
F. T. Pomeroy, Treasurer, Cleveland, Ohio

Fifth: The principal office of the Company shall be in the Village of Berea, in the County of Cuyahoga and State of Ohio.

Sixth: The capital stock of the Company, which shall consist of common and preferred stock shall be Three Million Dollars ($3,000,000) of common stock divided into thirty thousand (30,000) shares of the par value of One Hundred Dollars ($100.00) each; and two Million Dollars ($2,000,000.00) of preferred stock divided into twenty thousand (20,000) shares of One Hundred Dollars ($100.00) each; and each share of the preferred stock of the company shall be entitled to dividends at the rate of five per centum per annum, payable semi-annually, out of the surplus profits of the Company each year, prior to the payment of any dividends upon the common stock, and such dividends upon the preferred stock shall be cumulative, and in case of the

insolvency or dissolution of the corporation, the holders of the preferred stock shall be entitled to receive from the assets remaining after paying its debts and liabilities, the full payment of the par value of such preferred stock before anything is paid to the common stock, and the shares of common and preferred stock of the Company shall have equal voting power.

Seventh: Thirty thousand (30,000) shares of the common stock and twelve thousand (12,000) shares of the preferred stock shall be distributed in exchange for all of the capital stock of the two companies, as follows, to-wit:

To the stockholders of The Cleveland, Elyria and Western Railway Company twenty thousand (20,000) shares of said common stock, and twelve thousand (12,000) shares of said preferred stock, to be divided pro rata according to the holdings, among the stockholders of said last named Company.

To the stockholders of The Cleveland and Southern Railway Company ten thousand (10,000) shares of said common stock, to be divided pro rata according to the holdings, among the stockholders of said last named Company.

Eighth: Five Hundred (500) shares of preferred stock of the Company shall, in connection with five hundred (500) of the bonds of the Company hereinafter provided for, be issued and used for the purpose of retiring as soon as possible five hundred and fifty (550) of the outstanding bonds hereinafter referred to, of said The Cleveland and Southern Railway Company.

Ninth: Four thousand five hundred (4,500) shares of the preferred stock of the Company shall be sold at par to the Managing Committee of the holders of the bonds above referred to, of said The Cleveland and Southern Railway Company, and if any of said four thousand five hundred (4,500) shares of said preferred stock are not taken by said Managing Committee of the Bondholders of The Cleveland and Southern Railway Company, they shall be disposed of by the Board of Directors of The Cleveland and South-Western Traction Company according to law, in such amounts, at such time and in such manner as the interests of the Company may require.

Tenth: The remaining three thousand (3,000) shares of the preferred stock of The Cleveland and South-Western Traction Company shall be disposed of by its Board of Directors, according to law, in such amounts, at such times and in such manner as the interests of the Company may require.

Eleventh: The Cleveland and South-Western Traction Company assumes all the debts, liabilities and contracts of the constituent companies and is to pay off and extinguish all debts and liabilities of every kind and nature, of each constituent company.

Twelfth: The Cleveland and South-Western Traction Company shall, as herein provided, and the Board of Directors of said Company is hereby authorized and empowered to, issue on behalf of said Company and in its corporate name, its bonds in the amount of Three Million Dollars ($3,000,000.00), to be dated February 1st, 1903, payable twenty years after the date of said bonds, but redeemable, in the manner, and for the sum to be provided in the trust deed or mortgage securing the same, ten years after the date thereof, or at any interest maturing period thereafter, at the option of said Company. Said bonds to be of the denomination of One Thousand Dollars ($1,000.00) each, to be payable in the gold coin of the United States of America of the present standard of weight and fineness, and to bear interest at the rate of five per centum per annum, payable semi-annually, in the gold coin aforesaid; said interest to be evidenced by coupons attached to said bonds; said bonds to be secured by a mortgage or deed of trust, conveying to The Federal Trust Company, of Cleveland, Ohio, as Trustee, by way of security for said bonds, all of the property and franchises of the Company, now owned and hereafter to be acquired by it. No one of the bonds above mentioned shall be deemed issued or be valid or secured by the mortgage or deed of trust above provided for, until the same shall have been authenticated by the Federal Trust Company, as Trustee, or its successors in the trust.

Of said bonds of The Cleveland and South-Western Traction Company, five hundred (500) of said bonds shall be issued and used in connection with five hundred (500) shares of the preferred stock of the Company hereinbefore referred to, for the purpose of retiring as soon as possible five hundred and fifty (550) bonds heretofore issued, out of a total authorized issue of one thousand (1000) bonds, four hundred and fifty (450) of which last mentioned bonds it is agreed have not been heretofore and shall not hereafter be issued and shall be cancelled, of The Cleveland and Southern Railway Company, dated the 1st day of July, 1901, and secured by a mortgage or deed of trust dated the first day of July, 1901, given by said The Cleveland and Southern Railway Company to The Cleveland Trust Company of Cleveland, Ohio.

Of said bonds of The Cleveland and South-Western Traction Company, fifteen hundred (1500) thereof shall remain in the hands of the trustee under said mortgage, for future issue, and shall be authenticated and issued only for the purpose of retiring as soon as possible an issue of bonds of The Cleveland, Elyria and Western Railway Company, of the par value of One Million Five Hundred Thousand Dollars ($1,500,000.00), said issue of bonds last referred to being a series of fifteen hundred (1500) bonds of the par value of One Thousand Dollars ($1,000.00) each, dated the first day of August, 1900, and secured by a mortgage or deed of trust, dated the first day of August, 1900, and given by The Cleveland, Elyria and Western Railway Company to The Western Reserve Trust Company, of Cleveland, Ohio as Trustee; of which said fifteen hundred (1500) bonds of The Cleveland, Elyria and Western Railway Company last mentioned, one thousand (1,000) have been issued and sold and are now outstanding, and seventy-three (73) of which have been issued and used to retire seventy-three (73) of an issue of One Thousand Dollar bonds of The Cleveland, Berea, Elyria and Oberlin Railway Company, hereinafter mentioned, and are now outstanding; and of which bonds of The Cleveland, Elyria and Western Railway Company, four hundred and twenty-seven (427) remain in the hands of the Trustee for future issue, and are to be issued only for the purpose of retiring as soon as possible four hundred and twenty-seven (427) out of a total issue of five hundred (500) bonds of The Cleveland, Berea, Elyria and Oberlin Railway Company, of the par value of Five Hundred Thousand Dollars ($500,000.00); said issue of bonds of The Cleveland, Berea, Elyria and Oberlin Railway Company last mentioned, being a series of five hundred (500) bonds of the par value of One Thousand Dollars ($1,000.00) each, dated March 1st, 1899, secured by a mortgage or deed of trust, and given by The Cleveland, Berea, Elyria and Oberlin Railway Company to the Cleveland Trust Company of Cleveland, Ohio, as Trustee; of which said five hundred (500) bonds last mentioned, seventy-three (73) have been retired; one hundred and twenty-seven (127) have been issued and sold and are now outstanding, and three hundred (300) of which are issued and deposited with The Cleveland Trust Company, of Cleveland, Ohio, to be held by it in escrow and used for the purpose of redeeming the following issues of bonds, viz.:

(1) An issue of four hundred bonds of The Cleve-

land and Elyria Electric Railroad Company, of the par value of Five Hundred Dollars ($500.00) each, dated May 1st, 1895, and secured by a mortgage or deed of trust, dated May 1st, 1895, given by said The Cleveland and Elyria Electric Railroad Company to The Savings and Trust Company of Cleveland, Ohio.

(2) An issue of two hundred bonds of The Elyria and Oberlin Electric Railway Company, of the par value of Five Hundred Dollars ($500.00) each, dated August 1st, 1897, and secured by a mortgage or deed of trust, dated August 1st, 1897, given by the said The Elyria and Oberlin Electric Railway Company to The Cleveland Trust Company of Cleveland, Ohio.

Of said bonds of The Cleveland and South-Western Traction Company, one hundred (100) thereof shall remain in the hands of the Trustee under said mortgage, for future issue, and shall be authenticated and issued only for the purpose of retiring as soon as possible an issue of bonds of The Elyria, Grafton and Southern Railway Company, now outstanding, of the par value of One Hundred Thousand Dollars ($100,000.00), heretofore issued by the last named Company, dated the first day of January, 1902, which last mentioned issue of bonds were guaranteed by The Cleveland, Elyria and Western Railway Company, and are secured by a mortgage or deed of trust, dated January 1st, 1902, made by said The Elyria, Grafton and Southern Railway Company to The Federal Trust Company of Cleveland, Ohio, as Trustee.

The remaining nine hundred (900) bonds of The Cleveland and South-Western Traction Company shall be issued from time to time, upon resolutions of the Directors of the Company, adopted at any regular or special meeting of the Directors, and sold or otherwise used for the purpose of providing for the payment of the floating debts of the said constituent companies, which are assumed by The Cleveland and South-Western Traction Company; for the purpose of making necessary extensions, improvements, equipments and additional equipments of the lines of the consolidated company and extensions thereof, and the acquisition, equipment and additional equipment of other lines of railway and extensions thereof; and for the purpose of leasing or purchasing all the property, real, personal and mixed, and all the franchises, rights and privileges of any company or companies organized for the purpose of supplying electricity or natural gas, artificial gas, or both electricity and natural or artificial gas, for power, light, heat or fuel purposes, or which has been engaged in such

business in whole or in part, in any municipality of the State of Ohio, and for such other lawful purposes as shall be found advisable by the Board of Directors of said Consolidated Company.

Thirteenth: All of the affairs, property and business of the said The Cleveland and South-Western Traction Company shall be under the control of the Board of Directors of said Company, who shall have full power in the management and control of the business of the Company, subject to the laws of the State of Ohio.

Fourteenth: The said The Cleveland, Elyria and Western Railway Company, party of the first part, and The Cleveland and Southern Railway Company, party of the second part, hereby respectively grant, convey, transfer and set over, to the consolidated, The Cleveland and South-Western Traction Company, all their respective rights, franchises and property of every description whatsoever, and hereby respectively transfer to said The Cleveland and South-Western Traction Company their respective books, papers, furniture and assets of every description whatsoever; it being especially understood and agreed that when this Consolidation Agreement has been consented to and ratified by the stockholders of each of said Companies, in accordance with law, this Agreement shall constitute a conveyance to the consolidated company, The Cleveland and South-Western Traction Company, of all the rights, property, franchises, privileges, books, papers and assets of every description, of the two constituent companies signing this Agreement.

In Witness Whereof, each of the above named constituent companies and the Directors of said Companies as well, parties hereto, have caused these presents to be signed by said Directors, and by the President and Secretary of each of said Companies, and have caused their respective corporate seals to be hereto affixed, the day and year first above written.

The Cleveland, Elyria and Western Railway Company

By A. H. Pomeroy, President

E. F. Schneider, Secretary,

Directors of The Cleveland, Elyria and Western Railway Company

A. H. Pomeroy	F. T. Pomeroy
A. E. Akins	F. L. Fuller
M. H. Sprague	H. Q. Sargent
L. M. Coe	Levi E. Meacham
S. C. Smith	M. J. Mandelbaum
O. D. Pomeroy	

The Cleveland and Southern
Railway Company
By W. H. Lamprecht, President
F. L. Fuller, Secretary

Directors of The Cleveland and Southern
Railway Company

W. H. Lamprecht	M. L. Mandelbaum
Frank Grim	F. L. Fuller
F. T. Pomeroy	A. H. Pomeroy
O. F. Mueller	A. E. Akins
J. W. Roof	

The State of Ohio, Cuyahoga County, ss.

I, E. F. Schneider, Secretary of The Cleveland, Elyria and Western Railway Company, do hereby certify that a meeting of the stockholders of said Company was held at the office of the Company in the Village of Berea, Cuyahoga County, Ohio, on the 15th day of January, 1903, for the purpose of considering the within agreement of Consolidation. I do further Certify that due notice as required by law, of the time and place of holding said meeting and the objects thereof had been previously given to each of the persons in whose names the capital stock of the Company then stood and now stands on the books thereof. I do certify that the persons in whose name 19784 shares of the capital stock of the Company then stood and now stands on the books of the Company, all being stockholders of said Company, were present at said meeting in person or by proxy.

I do further certify that the within agreement of consolidation was submitted for the consideration of said meeting, and a vote by ballot was taken for the adoption or rejection of the same. That 19784 shares of the stock of said Company (all of which was and is fully paid up and upon none of the shares of which were there any unpaid installments called for by the Board of Directors) were voted in person or by proxy by the stockholders entitled to vote the same; one vote being cast for each share of stock by the holder thereof, and that said agreement was adopted by 19784 shares of the stock of said Company cast in favor of said adoption and no shares being cast in favor of said rejection, the vote cast in favor of the adoption of said agreement being more than two-thirds of the capital stock subscribed of the Company.

In Witness Whereof, I have hereunto set my hand and affixed the corporate seal of said Company, this 21st day of January, A. D. 1903.

E. F. Schneider, Secretary
of The Cleveland Elyria and Western Railway Company.

The State of Ohio, Cuyahoga County, ss.

I, F. L. Fuller, Secretary of The Cleveland and Southern Railway Company, do hereby certify that a meeting of the stockholders of said Company was held at the office of the Company in the City of Cleveland, Cuyahoga County, Ohio, on the 15th and 21st days of January, A. D. 1903, for the purpose of considering the within agreement of consolidation. I do further certify that due notice as required by law, of the time and place of holding said meeting and the objects thereof had been previously given to each of the persons in whose names the capital stock of the Company then stood and now stands on the books thereof. I do certify that the persons in whose name 10,000 shares of the capital stock of the Company then stood and now stands on the books of the Company, all being stockholders of said Company, were present at said meeting in person or by proxy.

I do further certify that the within agreement of consolidation was submitted for the consideration of said meeting, and a vote by ballot was taken for the adoption or rejection of the same. That 10,000 shares of the capital stock of said company (all of which was and is fully paid up and upon none of the shares of which were there any unpaid installments called for by the Board of Directors) were voted in person or by proxy by the stockholders entitled to vote the same; one vote being cast for each share of stock by the holder thereof, and that said agreement was adopted by 10,000 shares of the stock of said Company cast in favor of said adoption and no shares being cast in favor of said rejection, the vote cast in favor of the adoption of said agreement being more than two-thirds of the capital stock subscribed of the company.

In Witness Whereof, I have hereunto set my hand and affixed the corporate seal of said Company, this 21st day of January, A. D. 1903.

(Seal) F. L. Fuller, Secretary
of The Cleveland and Southern Railway Company

United States of America, State of Ohio,
Office of the Secretary of State.

I, Clarence J. Brown, Secretary of State of the State of Ohio, do hereby certify that the foregoing is an exemplified copy, carefully compared by me with the original record now in my official custody as Secretary of State, and found to be true and correct, of the Agreement of Consolidation between The Cleveland, Elyria and Western Railway Company, The Cleveland and Southern Railway Company, into The Cleveland and South-Western Traction Company filed in this office on the 21st day of January, A. D. 1903, and recorded in Volume 82, Page 677, of the Records of Incorporations.

Witness my hand and official seal, at Columbus, this 14th day of January, A. D. 1930.

(Signed) Clarence J. Brown,
(Seal) Secretary of State.

PLAINTIFF'S EXHIBIT No. 11

O.K. as to form—E. F. B., H. C. L.

AGREEMENT BETWEEN THE NORWALK GAS AND ELECTRIC AND THE CLEVELAND AND SOUTHWESTERN TRACTION COMPANY, DATED FEBRUARY 14, 1903.

This agreement made and entered into this 14th day of February, A. D. 1903, by and between The Norwalk Gas and Electric Company, party of the first part, and The Cleveland and South-Western Traction Company, party of the second part, both of said companies being corporations duly and legally organized under the laws of the State of Ohio,

Witnesseth:

That upon the considerations, terms and conditions hereinafter expressed on the part of said The Cleveland and South-Western Traction Company, party of the sec-

ond, part, to be kept and performed, the said The Norwalk Gas and Electric Company, party of the first party, hath granted, bargained, sold, remised, released, aliened, conveyed, confirmed, assigned, transferred and set over and by these presents doth grant, bargain, sell, remise, release, alien, convey, confirm, assign, transfer and set over unto The Cleveland and South-Western Traction Company, its successors and assigns forever, all the gas and electric lighting plants and all other property whatsoever owned and operated, constructed and held by the party of the first part, wheresoever situate; also all other property, real, personal and mixed, and all the franchises, rights and privileges which it now owns, together with all and singular the real estate, lands, tenements and hereditaments of every name and nature which it now owns, wherever situate; and all and singular its property of every name and description in law or in equity, which it now owns, subject to all existing debts, liabilities obligations and contracts of every kind and character of The Norwalk Gas and Electric Company, which the said The Cleveland and South-Western Traction Company, its successors and assigns, assumes and agrees to pay, liquidate and perform, as one of the considerations for the conveyance hereby made.

In consideration of the above and foregoing conveyance made to it by the party of the first part, the party of the second part, for itself, its successors and assigns, hereby agrees to pay to the party of the first part the sum of One Hundred Thousand Dollars ($100,000.00), cash in hand, upon the delivery to it, the party of the second part, its successors and assigns, by the party of the first part, of possession of all the gas and electric lighting plants and properties aforesaid, under and in pursuance of the terms of this agreement; and as a further consideration for the conveyance and transfer to it of the gas and electric lighting plants and properties aforesaid, the said The Cleveland and South-Western Traction Company, for itself, its successors and assigns, hereby assumes and agrees to pay, liquidate and perform all debts, liabilities, obligations and contracts of every kind and character of said The Norwalk Gas and Electric Company, existing at the date upon which possession of the said gas and electric lighting plants and properties above mentioned is surrendered to it by said party of the first part, in pursuance hereof.

It is further mutually agreed and hereby intended, that all property of every name and description in law or in equity, wherever situated, of the said The Norwalk

Gas and Electric Company, existing at the time of the delivery of this instrument, together with all its franchises, rights and privileges, are included in and covered by the conveyance hereby made.

And the party of the first party further agreees that it will, from time to time and at all times hereafter, as often as thereunto requested by the party of the second part, its successors or assigns, execute, acknowledge and deliver all such further deeds, conveyances and assurances in the law, for the better assuring unto the party of the second part, its successors and assigns, the property herein conveyed, or intended so to be, as by said party of the second part, its successors or assigns, shall be reasonably required.

In Witness Whereof, the corporations, parties hereto have caused their respective corporate names and seals to be hereunto affixed and the same to be attested by the signatures of their respective President and Secretary, the day and year first above written.

The Norwalk Gas and Electric Company,
By (Signed) Ed L. Young, President,
(Signed) J. A. Nester, Secretary.

(Corporate Seal)

Signed, sealed and delivered in presence of
(Signed) C. W. Collister,
(Signed) Owen N. Wilcox.

The Cleveland and South-Western Traction Company
By (Signed) A. E. Akins, President;
(Corporate Seal) E. F. Schneider, Secretary.

Signed, sealed and delivered in presence of
(Signed) C. W. Collister,
(Signed) Owen Wilcox.

The State of Ohio, Cuyahoga County, ss.

Personally appeared before me a Notary Public within and for said County, Ed L. Young, President, and J. A. Nester, Secretary, of the within named, The Norwalk Gas and Electric Company, and acknowledged the signing, sealing and execution of the within instrument to be their free act and deed as said President and Secretary, and the free and corporate act and deed of said The Norwalk Gas and Electric Company.

In Witness Whereof, I have hereunto set my hand and official seal, at Berea, Ohio, this 14th day of February, A. D. 1903.

(Signed) Owen N. Wilcox,
(Notarial Seal) Notary Public.

The State of Ohio, Cuyahoga County, ss.

Personally appeared before me a Notary Public within and for said County, A. E. Akins, President, and E. F. Schneider, Secretary of the within named, The Cleveland and South-Western Company, who acknowledged the signing, sealing and execution of the within instrument to be their free act and deed as such President and Secretary, and the free and corporate act and deed of said The Cleveland and South-Western Traction Company.

In Witness Whereof, I have hereunto set my hand and official seal, at Berea, Ohio, this 14th day of February, A. D. 1903.

(Signed) Owen N. Wilcox,
(Notarial Seal) Notary Public.

Pursuant to decree of foreclosure in the case of General Electric Company vs. The Cleveland, Southwestern & Columbus Railway Company, et al., No. 690 in Equity, in District Court of the United States in the Northern District of Ohio, Eastern Division, entered February 9, 1924, foreclosure sale held March 14, 1924, and an order of confirmation of said sale entered in said cause April 7, 1924, all right, title and interest of The Cleveland, Southwestern & Columbus Railway Company, its successors and assigns, in and to the rights and privileges of said The Cleveland, Southwestern & Columbus Railway Company evidenced by the within document, are hereby assigned, transferred and conveyed to The Cleveland, Southwestern Railway & Light Company as of March 1, 1924.

F. H. Wilson, Special Master.

PLAINTIFF'S EXHIBIT No. 12

O.K. as to form—E. F. B., H. C. L.

ORGANIZATION AND FRANCHISE
of
THE CLEVELAND SOUTHWESTERN AND COLUMBUS RAILWAY COMPANY

This Agreement of Consolidation, made and entered into on this 5th day of February, A. D. 1907, by and among The Cleveland and South-Western Traction Company, a corporation of the State of Ohio, and its Directors, party of the first part, and The Cleveland, Ashland and Mansfield Traction Company, a corporation of the State of Ohio, and its Directors, party of the second part, and The Ohio Central Traction Company, a corporation of the State of Ohio, and its Directors, party of the third part, each of said companies acting through and by the action and concurrence of their respective Boards of Directors.

Witnesseth, That Whereas, the laws of the State of Ohio provide, that whenever the lines, or authorized lines, of road of any street railroad corporations or companies meet or intersect, or can be conveniently operated from one power house, or from a power house or power houses, owned, under lease, or operated by one of such street railroad companies or corporations, or whenever any such line of any street railroad corporation or company and that of any railroad operated by electricity may be conveniently connected to be operated to mutual advantage, or whenever any such line of any street railroad corporation or company, or the railway of any company operated by electricity, can be conveniently operated from one power house, or from a power house owned, under lease, or operated by one of such street railroad corporations or companies, or by any company or corporation the railway of which is operated by electricity, such corporations or companies, or any two or more of them, are authorized to consolidate themselves into a single corporation, provided they are not competing lines; and

Whereas, The Cleveland and South-Western Traction Company now has and owns, authorized lines of street railway from a point in Lorain Street, in the City of Cleveland, Cuyahoga County, Ohio, to the following points, to-wit: a point in the Village of Rockport, in the County of Cuyahoga and State of Ohio; a point in the Village of Berea, in the County of Cuyahoga and State

of Ohio; a point in the City of Wooster, in the County of Wayne and State of Ohio; a point in the City of Elyria, in the County of Lorain and State of Ohio; a point in the Village of Grafton, in the County of Lorain and State of Ohio; a point in the Village of North Amherst, in the County of Lorain and State of Ohio; a point in the City of Lorain, in the County of Lorain and State of Ohio; a point in the Village of Wellington, in the County of Lorain and State of Ohio; a point in the Township of Norwalk, in the County of Huron and State of Ohio; all of said lines of street railway being within the Counties of Cuyahoga, Lorain, Erie, Huron, Medina, and Wayne in the State of Ohio; and

Whereas, The Cleveland, Ashland and Mansfield Traction Company now owns and has authorized lines of street railway from a point in the Northerly corporation line of the City of Mansfield, in the County of Richland and State of Ohio, to a point in the right of way and tracks of The Cleveland and South-Western Traction Company, in the County of Medina, State of Ohio, all of said lines being within the Counties of Richland, Ashland, Wayne and Medina, in the State of Ohio; and

Whereas, The Ohio Central Traction Company now owns and has authorized lines of Street railway from a point in the City of Bucyrus, in the County of Crawford, State of Ohio, to a point in the Northerly corporation line of the City of Mansfield in the County of Richland, State of Ohio; all of said lines being within the Counties of Crawford and Richland in the State of Ohio; and

Whereas, the lines of street railway of the corporations parties hereto meet and intersect and are operated by electricity and are not competing lines, and can be conveniently connected and operated to mutual advantage, and can be conveniently operated from power houses owned by one of said companies; and

Whereas, for the greater convenience of the public, and for the mutual advantage and benefit of the stockholders of each of said companies, the Directors of said companies have proposed, by and with the assent, approval and ratification of the stockholders of each of said companies, to be had in due form of law at meetings to be regularly called and held for that purpose, to unite and consolidate the capital stock, property and franchises of the said companies into one corporation;

Now, Therefore, The parties hereto, in conformity to the statute in such case made and provided, the said street railroad companies acting under and in pursuance of the resolution of their Board of Directors, and upon

the assent and ratification of the stockholders of said companies, to be had and made as hereinbefore set forth, do hereby agree to and with each other to, and do hereby unite and consolidate their said capital stock, railroads, property and franchises into one company, upon the following terms and conditions, to-wit:

First: The name of said consolidated company shall be The Cleveland, Southwestern and Columbus Railway Company.

Second: The officers of said company shall consist of a President, First Vice-President, Second Vice-President, Secretary and Treasurer, whose places of residence shall be in the State of Ohio.

Third: The number of Directors of said company shall be Nine (9) whose places of residence shall be in the State of Ohio, and the names and places of residence of the Directors of said Company, who are to hold office until their successors are elected by the stockholders, at the meeting appointed by the stockholders, called to take this agreement into consideration, pursuant to section 3383 of the Revised Statute of Ohio, are as follows:

E. T. Pomeroy, Cleveland, Ohio
F. E. Myers, Ashland, Ohio
H. Pomeroy, Cleveland, Ohio
F. L. Fuller, Cleveland, Ohio
M. J. Mandelbaum, Cleveland, Ohio
A. E. Akins, Cleveland, Ohio
H. Q. Sargent, Cleveland, Ohio
M. A. Sprague, Berea, Ohio
F. H. Ginn, Gates Mills, Ohio

Fourth: The names and residence of the officers of the Company who shall remain in office until their successors are elected by the Board of Directors, to be elected at the meeting of the stockholders appointed as mentioned in the paragraph last above of this agreement, and until their successors so elected are qualified, are as follows:

F. T. Pomeroy, President, Cleveland, Ohio
A. E. Akins, 1st Vice-President, Cleveland, Ohio
F. E. Myers, 2nd Vice-President, Ashland, Ohio.
E. F. Schneider, Secretary, Cleveland, Ohio
J. O. Wilson, Treasurer, Cleveland, Ohio.

Fifth: The principal office of the company shall be in the City of Cleveland, in the County of Cuyahoga and State of Ohio.

Sixth: The capital stock of the company which shall consist of common and preferred stock, shall be

Seven Million Five Hundred Thousand Dollars ($7,500,000.00) of common stock, divided into seventy-five thousand (75,000) shares of the par value of One Hundred Dollars ($100.00) each; and Two Million Five Hundred Thousand Dollars ($2,500,000.00) of preferred stock, divided into twenty-five thousand (25,000) shares of preferred stock of the par value of One Hundred Dollars each; and each share of the preferred stock of the Company, shall be entitled to dividends at the rate of five per centum per annum, payable semi-annually, out of the surplus profits each year, prior to the payment of any dividends upon the common stock, and such dividends upon the preferred stock shall be cumulative, and in case of the insolvency or dissolution of the corporation, the holders of the preferred stock shall be entitled to receive from the assets, remaining after paying its debts and liabilities, the full payment of the par value of such preferred stock, before anything is paid to the common stock, and the shares of common and preferred stock shall have equal voting power.

Seventh: Thirty-seven thousand (37,000) shares of the common stock and Twenty-four thousand (24,000) shares of the preferred stock shall be distributed in exchange for all the capital stock of The Cleveland and South-Western Traction Company, and of the Ohio Central Traction Company, as follows, to-wit:

To the holders of preferred stock of The Cleveland and South-Western Traction Company, twenty thousand (20,000) shares of said preferred stock and two thousand (2,000) shares of said common stock, in connection with two hundred (200) of the bonds of the Company, hereinafter provided for, all to be divided pro rata according to the holdings, among the preferred stockholders of said last named company.

To the holders of common stock of the Cleveland and South-Western Traction Company, Thirty thousand (30,000) shares of said common stock, to be divided pro rata according to the holdings, among the common stockholders of said last named Company.

To the holders of preferred stock of The Ohio Central Traction Company, four thousand (4,000) shares of said preferred stock, to be divided pro rata according to the holdings, among the preferred stockholders of said last named Company.

To the holders of common stock of The Ohio Central Traction Company, five thousand (5,000) shares of said common stock, to be divided pro rata according to the

holdings, among the common stockholders of said last named Company.

Eighth: To the holders of the stock of The Cleveland, Ashland and Mansfield Traction Company, ten thousand (10,000) shares of said common stock, to be divided pro rata, according to the holdings, among the stockholders of said last named company.

Ninth: The remaining one thousand (1000) shares of the preferred stock of the Cleveland, Southwestern and Columbus Railway Company, shall be disposed of by its Board of Directors, according to law, in such amounts and at such times and in such manner as the interests of the Company may require.

The remaining twenty-eight thousand (28,000) shares of the common stock of said company, shall be disposed of by the Board of Directors of said Company, according to law, in such amounts and at such times and in such manner as the interests of the company may require.

Tenth: The Cleveland, Southwestern and Columbus Railway Company assumes all the debts, liabilities, contracts and duties of each of said constituent companies.

Eleventh: The Cleveland, Southwestern and Columbus Railway Company shall, as herein provided, and the Board of Directors of said company is hereby authorized and empowered to, issue on behalf of said company, and in its corporate name, its bonds in the amount of Ten Million Dollars ($10,000,000.00), to be dated April 1st, 1907, payable twenty years after the date of said bonds, but redeemable, in the manner and for the sum to be provided in the trust deed or mortgage securing the same, ten years after the date thereof, or at any interest maturing period thereafter, at the option of said company. Said bonds to be of the denomination of One Thousand Dollars ($1000.00) each, to be payable in the gold coin of the United States of America of the present standard of weight and fineness, and to bear interest at the rate of Five per centum per annum, payable semi-annually, in the gold coin aforesaid: said interest to be evidenced by coupons attached to said bonds; said bonds to be secured by a mortgage or deed of trust, conveying to The Cleveland Trust Company, of Cleveland, Ohio, as trustee, by way of security for said bonds, all of the property and franchises of the Railway Company, now owned and hereafter to be acquired by it. No one of the bonds above mentioned shall be deemed issued or be valid or secured by the mortgage or deed of trust above provided for, until the same shall have been authenti-

cated by The Cleveland Trust Company, as Trustee, or its successor in the trust.

Of said bonds of The Cleveland, Southwestern and Columbus Railway Company, two hundred (200) shall be issued and used, together with twenty thousand (20,000) shares of the preferred stock of the company and two thousand (2,000) shares of the common stock of the company, in effecting the exchange of the holdings of preferred stock in the Cleveland and South-Western Traction Company, for the stock in this company, hereinbefore referred to.

Of said bonds of The Cleveland, Southwestern and Columbus Railway Company, three thousand one hundred and ten (3,110) shall remain in the hands of the trustee under said mortgage, for future issue, and shall be authenticated and issued only for the purposes of retiring the following issues of bonds, to-wit:

(a) Two Hundred and twenty bonds, of an authorized issue of bonds of The Norwalk Gas and Electric Company, of the aggregate amount of One Hundred and Twenty-five thousand dollars ($125,000.00); the total authorized issue of bonds last referred to, being a series of two hundred and fifty (250) bonds of the par value of five hundred dollars ($500.00) each, dated the first day of April, 1900, and secured by a mortgage or deed of trust, dated the first day of April, 1900, and given by The Norwalk Gas and Electric Company to The Euclid Avenue Trust and Savings Company, of Cleveland, Ohio, as Trustee; (thirty of said last mentioned bonds have never been issued and will not hereafter be issued); said two hundred and twenty bonds have been issued and are outstanding, and the payment of which said two hundred and twenty bonds, The Cleveland and South-Western Traction Company, its successors and assigns, is obligated to make, by the terms of the contract of sale, by The Norwalk Gas and Electric Company, to The Cleveland and South-Western Traction Company, dated February 14th, 1903, of all the gas and electric light plants and all other property, real, personal and mixed, and all the franchises, rights and privileges then owned by said The Norwalk Gas and Electric Company. The number of said bonds of this company to be used for the purposes of retiring said issue of bonds of The Norwalk Gas and Electric Company, is one hundred and ten (110).

(b) An issue of bonds of The Cleveland and South-Western Traction Company, of the par value of three million dollars ($3,000,000.00), said issue of bonds last referred to being a series of three thousand (3000) bonds

of the par value of one thousand dollars ($1,000.00) each, dated the 1st day of February, 1903, and secured by a mortgage or deed of trust, dated the 1st day of February, 1903, and given by The Cleveland and South-Western Traction Company, to The Federal Trust Company, of Cleveland, Ohio, as Trustee, of which said three thousand (3000) bonds of The Cleveland and South-Western Traction Company, last mentioned, fourteen hundred (1400) have been issued and are now outstanding; of which three thousand (3000) bonds of The Cleveland and South-Western Traction Company, last mentioned, sixteen hundred (1600) remain in the hands of the trustee for future issue, and are to be issued only for the purpose of retiring as soon as possible, an issue of bonds of The Elyria, Grafton and Southern Railway Company, now outstanding, of the par value of one hundred thousand dollars ($100,000.00), heretofore issued by said last named Company, dated the 1st day of January, 1902, which last mentioned issue of bonds was guaranteed by The Cleveland, Elyria and Western Railway Company, and are secured by a mortgage or deed of trust, dated January 1st, 1902, made by said The Elyria, Grafton and Southern Railway Company to The Federal Trust Company of Cleveland, Ohio, as Trustee; and for retiring as soon as possible an issue of bonds of The Cleveland, Elyria and Western Railway Company, of the par value of One Million Five Hundred Thousand Dollars ($1,500,000.00); said issue of bonds last mentioned being a series of fifteen hundred (1500) bonds of the par value of One Thousand Dollars ($1000.00) each, dated the 1st day of August, 1900, and secured by a mortgage or deed of trust, dated the 1st day of August, 1900, and given by The Cleveland, Elyria and Western Railway Company to The Western Reserve Trust Company of Cleveland, Ohio, as Trustee; of which fifteen hundred (1500) bonds of The Cleveland, Elyria and Western Railway Company, last mentioned, one thousand (1000) have been issued and sold and are now outstanding, and seventy-three (73) of which have been issued and used to retire seventy-three (73) of an issue of one thousand dollar bonds of The Cleveland, Berea, Elyria and Oberlin Railway Company, hereinafter mentioned, and are now outstanding; and of which bonds of The Cleveland, Elyria and Western Railway Company four hundred and twenty-seven (427) remain in the hands of the Trustee for future issue, and are to be issued only for the purpose of retiring as soon as possible four hundred and twenty-seven (427) out of a total issue of five hundred (500)

bonds of The Cleveland, Berea, Elyria and Oberlin Railway Company, of the par value of Five Hundred Thousand Dollars ($500,000.00); said issue of bonds of The Cleveland, Berea, Elyria and Oberlin Railway Company last mentioned, being a series of five hundred (500) bonds of the par value of One thousand dollars ($1000.00) each, dated March 1st, 1899, secured by a mortgage or deed of trust, and given by The Cleveland, Berea, Elyria and Oberlin Railway Company, to The Cleveland Trust Company of Cleveland, Ohio, as Trustee; of which said five hundred (500) bonds last mentioned, seventy-three (73) have been retired; One hundred and Twenty-seven (127) have been issued and sold and are now outstanding, and three hundred (300) of which are issued and deposited with The Cleveland Trust Company of Cleveland, Ohio, to be held by it in escrow and used for the purpose of redeeming the following issues of bonds, viz.:

(1) An issue of four hundred bonds of The Cleveland and Elyria Electric Railroad Company of the par value of Five Hundred Dollars ($500.00) each, dated May 1st, 1895, and secured by a mortgage or deed of trust, dated May 1st, 1895, given by said The Cleveland and Elyria Electric Railroad Company to The Savings and Trust Company of Cleveland, Ohio.

(2) An issue of Two hundred bonds of The Elyria and Oberlin Electric Railway Company, of the par value of five hundred dollars ($500.00) each, dated August 1st, 1897, and secured by a mortgage or deed of trust, dated August 1st, 1897, given by the said The Elyria and Oberlin Electric Railway Company to The Cleveland Trust Company of Cleveland, Ohio.

Of said bonds of The Cleveland, Southwestern and Columbus Railway Company, four hundred (400) shall remain in the hands of the Trustee under said mortgage, for future issue, and shall be authenticated and issued only for the purpose of retiring as soon as possible, an issue of bonds of The Ohio Central Traction Company, (a corporation formed by the consolidation of two constituent companies, named The Ohio Central Traction Company and The Mansfield, Crestline and Galion Railway Company) of the par value of four Hundred thousand dollars ($400,000.00), said issue of bonds last referred to being a series of eight hundred (800) bonds of the par value of five hundred dollars ($500.00) each, dated the 2nd day of March, 1903, and secured by a mortgage or deed of trust dated the 2nd day of March, 1903, and given by said The Ohio Central Traction Company,

the consolidated company, to The Cleveland Trust Company of Cleveland, Ohio, as Trustee; of which said eight hundred bonds, five hundred (500) have been issued, and used to retire an issue of five hundred bonds of said The Mansfield, Crestline and Galion Railway Company, of the par value of Two Hundred and Fifty Thousand Dollars ($250,000.00), dated February 2nd, 1903, and secured by a mortgage or deed of trust made by The Mansfield, Crestline and Galion Railway Company, to The Cleveland Trust Company, of Cleveland, Ohio, as Trustee, and are now outstanding; of which said eight hundred bonds, three hundred (300) are in the hands of the Trustee for future issue and are to be authenticated and issued only for the purpose of retiring as soon as possible, one hundred and fifty (150) bonds out of a total issue of two hundred (200) bonds, of the par value of one thousand dollars ($1000.00) each, (fifty of which bonds have heretofore been cancelled and retired) of the said constituent company, The Ohio Central Traction Company, dated June 1st, 1899, and secured by a mortgage or deed of trust, made by said constituent company, The Ohio Central Traction Company, to The New Haven Trust Company, of New Haven, Connecticut, as Trustee.

Of said bonds of The Cleveland, Southwestern and Columbus Railway Company, one thousand (1000) shall be issued, and used for the purpose of making full satisfaction, on the part of said The Cleveland, Ashland and Mansfield Traction Company, to the persons, firms and corporations who have agreed to purchase the first mortgage bonds of said last named Company, and to whom the said last named Company is under agreement and obligation to deliver such bonds; the aggregate amount of which bonds so agreed to be purchased and delivered is in the sum of One Million Dollars ($1,000,000.00). Of said bonds of The Cleveland, Southwestern and Columbus Railway Company, two hundred and ninety (290) shall be issued at once, and delivered to the company and sold, or otherwise used, for the purpose of the payment of the floating debts and liabilities of the constituent companies, which are assumed by The Cleveland Southwestern and Columbus Railway Company; for the purpose of purchasing necessary equipment for the lines of the consolidated company; for the purpose of making necessary improvements of the lines of the Consolidated companies; and for any other lawful purpose and purposes.

The remaining five thousand (5000) bonds of The Cleveland, Southwestern and Columbus Railway Company, shall be issued from time to time, upon resolutions of the Directors of the company, adopted at any regular or special meeting of the Directors, and sold or otherwise used for the purpose of making necessary extensions, improvements, equipments and additional equipments of the lines of the consolidated company, and extensions thereof, and the acquisition, equipment and additional equipment of other lines of railway and extensions thereof, and for such other lawful purpose or purposes as shall be found advisable by the Board of Directors of the consolidated company.

Twelfth: All the affairs, property and business of the said The Cleveland, Southwestern and Columbus Railway Company shall be under the control of the Board of Directors of said company, who shall have full power in the management and control of the business of the company, subject to the laws of the State of Ohio.

Thirteenth: The said The Cleveland and South-Western Traction Company, party of the first part, and The Cleveland, Ashland and Mansfield Traction Company, party of the second part, and the Ohio Central Traction Company, party of the third part, hereby respectively grant, convey, transfer and set over to the consolidated The Cleveland, Southwestern and Columbus Railway Company, all their respective rights, franchises, and property of every description whatsoever, and hereby respectively transfer to said The Cleveland, Southwestern and Columbus Railway Company, their respective books, papers, furniture and assets of every description whatsoever; it being especially understood and agreed, that when this consolidation agreement has been consented to and ratified by the stockholders of each of said Companies, in accordance with law, this agreement shall constitute a conveyance to the consolidated company, The Cleveland, Southwestern and Columbus Railway Company, of all the rights, property, franchises, privileges, books, papers and assets of every description of the three constituent companies signing this agreement.

In Witness Whereof, each of the above named constituent companies and the Directors of said companies as well, parties hereto, have caused these presents to be signed by said Directors, and by the President and Secretary of each of said companies, and have caused their

respective corporate seals to be hereto affixed, the day and year first above written.

The Cleveland and South-Western Traction Company
By F. L. Pomeroy, President
E. F. Schneider, Secretary
F. L. Pomeroy
H. Pomeroy
H. L. Sargent
A. E. Okins
M. A. Sprague
F. L. Fuller
Frank H. Ginn
W. B. Thompson
F. E. Myers
W. H. Lamprecht
L. M. Coe
A. C. Smith
Geo. N. Chandler,
Directors of The Cleveland and South-Western Traction Company.

The Cleveland, Ashland and Mansfield Traction Company
By C. W. Collister, President
A. J. Halle, Secretary.
C. W. Collister
Frank Butler
A. J. Halle
M. L. Benham
W. H. Abbott
A. F. Schneider
A. B. Taylor
Directors of The Cleveland, Ashland and Mansfield Traction Company

The Ohio Central Traction Company
By L. J. Wolf, President
L. M. Wolf, Secretary
L. J. Wolf
P. D. Carpenter
Adolph Born
A. E. Feihl
L. M. Wolf
(Seal) L. M. Coe,
Directors of The Ohio Central Traction Company.

The State of Ohio, Cuyahoga County, ss.

I, E. F. Schneider, Secretary of The Cleveland and South-Western Traction Company, do hereby certify that a meeting of the stockholders of said company was held at the office of the company, in the Village of Berea, Ohio, on the 28th day of February, A. D. 1907, for the purpose of considering the within agreement of consolidation.

I do further certify that due notice as required by law of the time and place of holding said meeting, and the objects thereof, had been previously given to each of the persons in whose names the capital stock of the company then stood and now stand on the books thereof.

I do certify that the persons in whose names 46940 shares of the capital stock of the company then stood and now stand on the books of the company, all being stockholders of said Company, were present at said meeting in person or by proxy.

I do further certify that the within agreement of consolidation was submitted for the consideration of said meeting and a vote by ballot was taken for the adoption or rejection of the same. That 46940 shares of the stock of said company (all of which was and is fully paid up and upon none of the shares of which were there any unpaid installments called for by the Board of Directors) were voted in person or by proxy, by the stockholders entitled to vote the same; one vote being cast for each share of stock by the holder thereof, and that said agreement was adopted by 46940 shares of the stock of said company cast in favor of said adoption and no shares being cast in favor of said rejection, the vote cast in favor of the adoption of said agreement being more than two-thirds of the capital stock subscribed of the company.

In Witness Whereof, I have hereunto set my hand and affixed the corporate seal of said company, this 28th day of February, A. D. 1907.

E. F. Schneider
Secretary of The Cleveland and South-Western Traction Company

The State of Ohio, Cuyahoga County, ss.

I, A. J. Halle, Secretary of The Cleveland Ashland and Mansfield Traction Company, do hereby certify that a meeting of the stockholders of said company was held at the office of the company, 615 Garfield Building, Cleveland, Ohio, on the 28th day of February, A. D. 1907, for the purpose of considering the within agreement of con-

solidation. I do further certify that all notice required by law or otherwise, of the time and place of holding said meeting and the objects thereof, were duly waived in writing by all the persons in whose names the capital stock of the company then stood and now stands on the books thereof.

I do certify that the persons in whose names ten shares of the capital stock of the company then stood and now stands on the books of the company, and being all the stockholders of said company, were present at said meeting in person or by proxy.

I do further certify that the within agreement of consolidation was submitted for the consideration of said meeting and a vote by ballot was taken for the adoption or rejection of the same; that ten shares of the stock of the company, (all of which was and is fully paid up and upon none of the shares of which were there any unpaid installments called for by the Board of Directors) were voted in person or by proxy by the stockholders entitled to vote the same; one vote being cast for each share of stock by the holder thereof, and that said agreement was adopted by ten shares of the stock of said company cast in favor of said adoption and no shares being cast in favor of said rejection, the vote cast in favor of the adoption of said agreement being all the capital stock subscribed of the company.

In Witness Whereof, I have hereunto set my hand and affixed the corporate seal of said company, this 28th day of February, A. D. 1907.

A. J. Halle,
Secretary of The Cleveland, Ashland and Mansfield Traction Company
(Seal)

The State of Ohio, Crawford County, ss.

I, L. M. Wolf, Secretary of The Ohio Central Traction Company, do hereby certify that a meeting of the stockholders of said company was held at the office of the company, in the City of Galion, Ohio, on the 1st day of March, A. D. 1907, for the purpose of considering the within agreement of consolidation. I do further certify that due notitce as required by law, of the time and place of holding said meeting, and the objects thereof, had been previously given to each of the persons in whose names the capital stock of the company then stood and now stands on the books thereof.

I do certify that the persons in whose names 10442 3/18 shares of the capital stock of the company then stood and now stands on the books of the company,

all being stockholders of said company, were present at said meeting in person or by proxy. I do further certify that the within agreement of consolidation was submitted for the consideration of said meeting and a vote by ballot was taken for the adoption or rejection of the same. That 10442 3/18 shares of the stock of said company (all of which was and is fully paid up and upon none of the shares of which were there any unpaid installments called for by the Board of Directors) were voted in person or by proxy, by the stockholders entitled to vote the same; one vote being cast for each share of stock by the holder thereof; and that said agreement was adopted by 10442 3/18 shares of the stock of said company cast in favor of said adoption and no shares being cast in favor of said rejection, the vote cast in favor of the adoption of said agreement being more than two-thirds of the capital stock subscribed of the company.

In Witness Whereof, I have hereunto set my hand and affixed the corporate seal of said company, this 1st day of March, A. D. 1907.

L. M. Wolf,
Secretary of The Ohio Central Traction Company.

(Seal)

United States of America, State of Ohio,
Office of the Secretary of State.

I, Clarence J. Brown, Secretary of State of the State of Ohio, do hereby certify that the foregoing is an exemplified copy, carefully compared by me with the original record now in my official custody as Secretary of State, and found to be true and correct, of the Agreement of Consolidation between The Cleveland and South-Western Traction Company, and The Cleveland, Ashland and Mansfield Traction Company and The Ohio Central Traction Company into The Cleveland, Southwestern and Columbus Railway Company filed in this office on the 4th day of March, A. D. 1907, and recorded in Volume 120, Page 684, of the Records of Incorporations.

Witness my hand and official seal, at Columbus, this 14th day of January, A. D. 1930.

(Signed) Clarence J. Brown,
Secretary of State.

(Seal)

PLAINTIFF'S EXHIBIT No. 13

O.K. as to form—E. F. B., H. C. L.

THESE ARTICLES OF INCORPORATION
of
THE CLEVELAND SOUTHWESTERN RAILWAY & LIGHT COMPANY

Witnesseth, That we, the undersigned, all of whom are citizens of the State of Ohio, desiring to form a corporation, for profit, under the general corporation laws of said State, do hereby certify:

First. The name of said corporation shall be The Cleveland Southwestern Railway & Light Company.

Second. Said corporation is to be located at Cleveland in Cuyahoga County, Ohio, and its principal business there transacted.

Third. Said corporation is formed for the purpose of constructing, building, acquiring by purchase, lease or otherwise, and owning, maintaining and operating a line or lines of interurban and street railroad, with rights of way, roadbed, single or double tracks, side tracks, switches, spurs, turn-outs, branches, extensions, stations, depots, terminals, way-stations, freight houses, power houses, lines for the transmission of electric power, and all other necessary or convenient appurtenances and appliances incidental to the operation of such railroad; said railroad to be operated by electric or other power, except steam power; of acquiring and holding real estate and personal property and all equipment and accessories necessary, convenient or proper to carry out the purposes herein mentioned; of purchasing, leasing or otherwise acquiring electricity or other motive power, and of constructing, owning and operating power plants for the generation of electricity or other motive power, by steam, water or other motive power, and of using, supplying and selling electricity or other motive power so generated for heat, light, power or other purposes and receiving compensation therefor; of transporting passengers, packages, express matter, United States mail, baggage, freight, and engaging in the general business of a common carrier upon its railroad or lines of railway and electrical transmission lines; also for the purpose of acquiring by leave, purchase or otherwise, owning and operating a bus or bus lines in connection with or as extensions or additions to its said lines of street and interurban railroad upon, in, over and along the streets, highways and roads in connection therewith,

such operation to be incidental or appurtenant to its business of operating such street and interurban railroad.

Said railroad and electrical transmission lines to have the City of Cleveland, Cuyahoga County, Ohio, for one terminus and the City of Norwalk, Huron County, Ohio, and the City of Bucyrus, Crawford County, Ohio, for its other termini, and shall pass through the following named counties in the State of Ohio, to-wit: Huron, Lorain, Cuyahoga, Medina, Wayne, Ashland, Richland and Crawford, and with branches of said railroad and electrical transmission lines to towns or places within the limits of said counties.

Fourth. The capital stock of said corporation shall be Ten Thousand Dollars ($10,000.00) divided into one hundred (100) shares of common stock of the par value of One Hundred Dollars ($100.00) each.

In Witness Whereof, we have hereunto set our hands, this 7th day of March, A. D. 1924.

Gardner Abbott
Henry A. Marting
J. C. Little
John M. Garfield
John S. Fleek

The State of Ohio, County of Cuyahoga, ss.

Personally appeared before me, the undersigned, a Notary Public in and for said county, this 7th day of March, A. D. 1924, the above named Gardner Abbott, Henry A. Marting, J. C. Little, John M. Garfield and John S. Fleek who each severally acknowledged the signing of the foregoing articles of incorporation to be his free act and deed, for the uses and purposes therein mentioned.

Witness my hand and official seal on the day and year last aforesaid.

Joseph B. Marsh
(Seal) Notary Public.

The State of Ohio, County of Cuyahoga, ss.

I, George Wallace, Clerk of the Court of Common Pleas, within and for the county aforesaid, do hereby certify that Joseph B. Marsh whose name is subscribed to the foregoing acknowledgment as a Notary Public was at the date thereof a Notary Public, in and for said county, duly commissioned and qualified, and authorized as such to take said acknowledgment; and further that I am well acquainted with his handwriting, and believe that the signature to said acknowledgment is genuine.

In Witness Whereof, I have hereunto set my hand and affixed the seal of said Court, at Cleveland, Ohio, this 7th day of March, A. D. 1924.

George Wallace

(Seal) By J. A. Baker, Deputy Clerk

United States of America, State of Ohio,
Office of the Secretary of State.

I, Clarence J. Brown, Secretary of State of the State of Ohio, do hereby certify that the foregoing is an exemplified copy, carefully compared by me with the original record now in my official custody as Secretary of State, and found to be true and correct, of the

Articles of Incorporation

The Cleveland Southwestern Railway & Light Company filed in this office on the 8th day of March, A. D. 1924 and recorded in Volume 305, Page 648, of the Records of Incorporations.

Witness my hand and official seal, at Columbus, this 14th day of January, A. D. 1930.

(Signed) Clarence J. Brown

(Seal) Secretary of State.

PLAINTIFF'S EXHIBIT No. 14

O. K. as to form—E. F. B., H. C. L.

BEFORE
THE PUBLIC UTILITIES COMMISSION OF OHIO

No. 3394:

Joint Application of Victor Emanuel and The Cleveland Southwestern Railway and Light Company for authority to purchase and sell certain high tension electric lines and the property and equipment in connection therewith in and between the Village of Oberlin and the City of Norwalk, Ohio

Now comes Victor Emanuel, a resident of the State of New York and The Cleveland Southwestern Railway

and Light Company, an Electric Railroad Corporation, incorporated under the laws of the State of Ohio and represent that they have entered into a contract and agreement for the purchase by said Victor Emanuel and the sale by The Cleveland Southwestern Railway and Light Company, subject to the approval of the Public Utilities Commission of Ohio, of certain high tension electric lines and the property and equipment in connection therewith as more particularly described in an Agreement dated November 19, 1924, upon the terms and conditions as more particularly set forth in said Agreement. A copy of said Agreement is attached hereto made a part hereof and marked Exhibit "A"

That the property therein contracted to be sold by The Cleveland Southwestern Railway and Light Company is reasonably worth the price to be paid therefor by Victor Emanuel, the purchaser thereof, as stipulated in said Agreement.

Wherefore, your Petitioners pray for the consent and authority of the Public Utilities Commission to complete said Agreement of purchase and sale upon the terms therein stipulated, and acknowledge and deliver such Bills of Sale or other instruments as may be necessary to transfer title to such property, and for such other orders and directions in the premises as may be reasonable and necessary.

Victor Emanuel
The Cleveland Southwestern Railway
and Light Company
F. H. Wilson, President
Attest: C. J. Mayers, Secretary.

State of New York, County of New York, ss:

Victor Emanuel being first duly sworn, says that the allegation, statements and averments contained in the foregoing Application are true as he verily believes.

Victor Emanuel

Sworn to before me and subscribed in my presence by said Victor Emanuel, this 11th day of December, 1924.

Mae B. Coy,
Notary Public.

State of Ohio, Cuyahoga County, ss:

F. H. Wilson, being first duly sworn, says that he is the President of The Cleveland Southwestern Railway and Light Company, and that the allegations, statements and averments contained in the foregoing application are true as he verily believes.

F. H. Wilson.

Sworn to and subscribed in my presence by said F. H. Wilson this 15th day of December, 1924.

Gardner Abbott,
Notary Public.

State of Ohio, Cuyahoga County, ss.

C. J. Mayers being first duly sworn, says that he is the Secretary of The Cleveland Southwestern Railway and Light Company, and that the allegations, statements and averments contained in the foregoing Application are true as he verily believes.

C. J. Mayers

Sworn to before me and subscribed in my presence by said C. J. Mayers, this 15th day of December, 1924.

Gardner Abbott,
Notary Public.

CERTIFICATION

State of Ohio, County of Franklin, ss:

I, Ira E. Sprankle, the duly appointed, qualified and acting Superintendent of Investigation, in whose custody the books, papers, documents and records of said Commission are filed, do hereby Certify there is transmitted herewith a true and correct copy of the application filed in Proceeding No. 3394; being

In the matter of the joint application of Victor Emanuel and The Cleveland Southwestern Railway and Light Company for authority to purchase and sell certain high tension electric lines and the property and equipment in connection therewith in and between the Village of Oberlin and the City of Norwalk, Ohio.

In Witness Whereof, I have hereunto set my hand and affixed the official seal of The Public Utilities Commission of Ohio at Columbus, Ohio, this thirteenth day of January, A. D. 1930.

Ira E. Sprankle
Superintendent of Investigation,
The Public Utilities Commission of Ohio.

PLAINTIFF'S EXHIBIT No. 14-A

O.K. as to form—E. F. B., H. C. L.

"No. 3394

"EXHIBIT A"

AGREEMENT

Excerpt:

I.

The Southwestern Company covenants and agrees to sell, assign and transfer to the Purchaser, its three phase high tension lines, poles and equipment therefor between the power house and substation of the Southwestern Company in the City of Norwalk, Ohio, and said point of intersection of the Elyria-Oberlin Road and East Lorain Street in the Village of Oberlin extended, east of Oberlin, referred to as the point of railroad and high tension line intersection, including the pole line to the Oberlin water works and the substation in connection therewith.

Also, all distribution power and light systems with the equipment in connection therewith, owned by the Southwestern Company within the corporate limits of the City of Norwalk, Ohio; together with all contract or franchise or other rights and privileges which the Southwestern Company may have in connection with the conduct of an electric light, heat and power business in said City;"

CERTIFICATION

State of Ohio, County of Franklin, ss:

I, Ira E. Sprankle, the duly appointed qualified and acting Superintendent of Investigation, in whose custody the books, papers, documents and records of the said The Public Utilities Commission of Ohio are filed, do hereby Certify there is transmitted herewith a true and correct copy of an Excerpt from Exhibit "A" in Proceeding No. 3394, being

In the matter of the joint application of Victor Emanuel and The Cleveland Southwestern Railway and Light Company for authority to purchase and sell certain high tension electric lines and the property and equipment in and between the Village of Oberlin and the City of Norwalk, Ohio.

In Witness Whereof, I have hereunto set my hand and affixed the official seal of The Public Utilities Com-

mission of Ohio at Columbus, Ohio, this thirteenth day of January, A. D. 1930.

Ira E. Sprankle
Superintendent of Investigation
The Public Utilities Commission of Ohio.

PLAINTIFF'S EXHIBIT No. 15

O.K. as to form—E. F. B., H. C. L.

Before
THE PUBLIC UTILITIES COMMISSION OF OHIO
No. 3394.

In the matter of the joint application of Victor Emanuel and The Cleveland Southwestern Railway and Light Company for authority to purchase and sell certain high tension electric lines and the property and equipment in connection therewith in and between the Village of Oberlin and the City of Norwalk, Ohio.

This day, after due notice to all parties in interest and it appearing to the Commission from the verified allegations in said application and the sworn statements and exhibits filed in connection therewith, and other documentary evidence submitted, that the taking of oral testimony herein is unnecessary, this matter came on for consideration upon the joint application of The Cleveland Southwestern Railway and Light Company and Mr. Victor Emanuel, of New York, New York, asking the consent to and approval, by this Commission, of the sale by said first named applicant and the purchase by the latter of the high tension electric lines and property and equipment associated therewith situated and being in and between the Village of Oberlin and the City of Norwalk, Ohio, of said The Cleveland Southwestern Railway and Light Company.

The Commission, being fully advised in the premises, finds from the pleadings and exhibits filed herein and its independent inquiry and investigation thereupon:

That the public will, upon the consummation of said proposed sale and purchase of said property, be furnished adequate service for a reasonable and just rate, rental, toll or charge the therefor,

and is satisfied that consent and authority for sale and purchase of such property should be granted. It is, therefore,

Ordered, That said The Cleveland Southwestern Railway and Light Company be, and hereby it is authorized to sell to Mr. Victor Emanuel of New York, New York, the high tension electric lines and property and equipment associated therewith, in and between the Village of Oberlin and the City of Norwalk, Ohio, which said property is more particularly described in the copy of the contract for the purchase and sale thereof appended to the application herein and marked, for identification Exhibit "A"; and the said Victor Emanuel hereby is authorized to purchase and acquire the same. It is further

Ordered, That, forthwith upon the exercise of the authority herein granted, the said parties file with this Commission schedules providing for their respective withdrawal from an inauguration of service within the territory now served by means of said property. It is further

Ordered, That nothing herein shall be construed to be a consent to or approval by this Commission of any increase in rates or diminution of service within the territory now served by means of said property; nor shall the findings hereinbefore set forth as to rates and service be binding upon this Commission in any future proceedings involving rates and/or service.

The Public Utilities Commission of Ohio.
Charles C. Marshall, Chairman.
George T. Poor,
Frank B. Maullar,
Commissioners.

Dated at Columbus, Ohio,
This sixth day of January, 1925.

CERTIFICATION

State of Ohio, County of Franklin, ss.

I, Ira E. Sprankle, the duly appointed, qualified and acting Superintendent of Investigation, in whose custody the books, papers, documents and records of said The Public Utilities Commission of Ohio are filed, do hereby Certify there is transmitted herewith a true and correct copy of the order of said Commission in Proceeding No. 3394; being

In the matter of the joint application of Victor Emanuel and The Cleveland Southwestern Railway and Light Company for authority to purchase and sell certain high tension electric lines and the property and equipment in connection therewith in and between the Village of Oberlin and the City of Norwalk, Ohio.

In Witness Whereof, I have hereunto set my hand and affixed the official seal of the Public Utilities Commission of Ohio at Columbus, Ohio, this thirteenth day of January, A. D. 1930.

Ira E. Sprankle (Signed)
Superintendent of Investigation The Public Utilities Commission of Ohio.

PLAINTIFF'S EXHIBIT No. 16

O.K. as to form—E. F. B., H. C. L.

BILL OF SALE

The Cleveland Southwestern Railway and Light Company, Grantor,

Victor Emanuel, Grantee.

Know All Men By These Presents, That The Cleveland Southwestern Railway and Light Company, an Ohio Corporation, the Grantor, in consideration of the sum of

Ten Dollars ($10.00) and other good and valuable considerations, received to its full satisfaction of Victor Emanuel, the Grantee, does hereby grant, convey, assign, transfer and deliver up to said Victor Emanuel, his administrators, executors or assigns, all and singular, the following described property, to-wit:

(a) That certain three phase high tension line, poles and equipment therefor between the power house and sub-station in the City of Norwalk of the Grantor and the point of intersection of the Elyria-Oberlin Road, and East Lorain Street in the Village of Oberlin extended, east of Oberlin.

(b) That certain three phase high tension line, poles and equipment therefor, extending from the high tension line hereinbefore described in Paragraph (a) hereof, to the Oberlin Water Works in the Village of Oberlin, together also with all sub-station equipment in connection therewith of the Grantor in the City of Oberlin, said equipment including all articles of personal property and all appurtenances in and to said high tension line mentioned in this paragraph.

(c) All primary and secondary light lines of the Grantor located on the poles referred to in Paragraphs (a) and (b) hereof and/or used in connection with the power and light business of the Grantor, including (1) approximately 3.9 miles of line between the city limits of the City of Norwalk and Stop 35 upon the Electric Interurban Railroad of the Grantor and (2) Line from point of connection with said high tension line described in Paragraph (a) hereof to and in the Village of Kipton, Ohio, and including all distribution power and light systems, transformers, meters, services and the equipment and appurtenances thereto, or used in connection therewith of the Grantor, within said Village of Kipton.

(d) All distribution power and light systems, transformers, meters, services and the equipment and appurtenances thereto or in connection therewith of the Grantor within the corporate limits of the City of Norwalk, Ohio, including approximately 8.3 miles of lines and poles of the Grantor, approximately 5.2 miles of lines on poles of others than the Grantor and approximately 4.3 miles of lines on poles owned jointly by the Grantor and others, together with all right, title and interest of the Grantor in and to the poles so occupied jointly.

(e) All equipment, material, appurtenances of the Grantor in and to the Power House and Sub-station of the Grantor in the City of Norwalk, Ohio, including boil-

ers, engines, frequency changer, transformers, oil switches, metering equipment, rotary converter.

Also all switching equipment, transformers, appurtenances and other equipment in connection with said three phase high tension line mentioned in Paragraph (a) hereof and located in the Railroad Station of the Grantor in the Village of Birmingham, Ohio, and used in connection with the commercial power and light business of the Grantor.

(f) That certain three phase high tension wire, cross arms, pins and insulators between the point of intersection of the Elyria-Oberlin Road and East Lorain Street of the Village of Oberlin extended, east of Oberlin (referred to in Paragraph (a)) and the point on the right of way of the Electric Interurban Railway of the Grantor where the Polk High Tension Line of the Grantor so-called, intersects said railway right of way and the pole line in connection therewith at Stop 100 on said right of way, more commonly known as Wack's Cheese Factory.

(g) That certain three phase high tension wire, pins and insulators located on the north side of poles of the Grantor between said Stop 100 referred to in Paragraph (f) hereof and the west property line of the car shops of the Grantor in the City of Elyria, Ohio.

It being the intention of the Grantor to assign, transfer, convey and deliver unto the Grantee, all personal property, equipment and appurtenances used by the Grantor in the conduct of its business of furnishing and supplying electrical energy for heat, light and power between said point of intersection of the Elyria-Oberlin Road and East Lorain Street in the Village of Oberlin extended, east of Oberlin, and the Power House and Sub-station of the Grantor in the City of Norwalk, or useful in the conduct of said business; excepting however therefrom the trolley wires, feeder wires, telephone wires, cross arms and attachments in connection therewith, belonging to the Grantor upon the poles supporting said high tension line between said City of Norwalk and point of intersection east of Oberlin.

To Have and To Hold the same unto said Grantee, his administrators, executors or assigns forever. And the said Grantor hereby covenants to and with the said Grantee that said Grantor is the lawful owner of the above described goods and chattels; that the Grantor has good right and authority to sell the same as aforesaid, and that said Grantor will warrant and defend the same against all lawful claims and demands whatsoever.

In Witness Whereof, The Cleveland Southwestern Railway and Light Company has hereunto set its hand and seal by its president and secretary at Cleveland, Ohio, as of the 31st day of December, 1924.

The Cleveland Southwestern Railway and Light Company,

(Signed) F. H. Wilson, President

(Signed) C. J. Mayers, Secretary

Signed in the presence of:

(Signed) C. M. McHisson

(Signed) L. M. Miller

PLAINTIFF'S EXHIBIT No. 17

O.K. as to form—E. F. B., H. C. L.

Assignment and Release by The Cleveland Southwestern Railway and Light Company to Victor Emanuel. Dated Dec. 31, 1924.

Know All Men by These Presents: That The Cleveland Southwestern Railway and Light Company, a corporation, incorporated under the laws of the State of Ohio, the Grantor, in consideration of the sum of Ten Dollars ($10) and other good and valuable considerations received to its full satisfaction of Victor Emanuel, the Grantee, has given, granted, remised, released and forever quit-claimed, and does by these presents absolutly give, grant, remise, release, and forever quit-claim unto the said Grantee, his heirs and assigns forever, all such rights and title as it, the said Grantor, has or ought to have in and to the following described premises:

That certain right of way upon which to erect and maintain poles for the purpose of carrying electric, feed and other wires, commencing in the County of Lorain, State of Ohio, Township of Russia at or near the intersection of the Elyria-Oberlin Road and East Lorain Street of the Village of Oberlin extended, east of Ober-

lin; thence in a westerly direction through said township of Russia, County of Lorain; thence northwesterly through the Township of Henrietta in said County, to the Village of Birmingham, Florence Township, Erie County, State of Ohio; thence westerly through said Florence Township and Berlin Township of said Erie County to the Village of Berlin Heights in said Township; thence southwesterly through said Township and through the Township of Milan in said County; thence southwesterly through the Township of Norwalk, Huron County, State of Ohio to the easterly limits of the City of Norwalk, Huron County, State of Ohio; thence over and across streets and ways in the City of Norwalk to the Sub-station and Power House of the Grantor in said City;

Said right of way for the maintenance of the pole line as aforesaid and as herein granted, being all the right, title and interest of the Grantor in and to its right of way or easement for the construction and maintenance of the pole line now owned by the Grantor, and extending between the points hereinbefore set forth and having been acquired by the Grantor or its predecessors in title by grant of easement, appropriation proceedings, contract, license and franchise, which grant of easement, appropriation proceedings, contract, license and franchise are in part as follows, to-wit:

(List of 158 right of way deeds and contracts is omitted—see Physical Exhibit 17.)

(a) Contract dated November 1, 1920 between The Wheeling & Lake Erie Railway Company and The Cleveland Southwestern & Columbus Railway Company in respect to right of crossing the right of way and tracks of The Wheeling & Lake Erie Railway Company with a high transmission line.

(b) Agreement by and between The Norwalk and Huron County Telephone Company of Norwalk, Ohio, and The Norwalk Gas & Electric Company dated July 23, 1902, with respect to the joint use of pole line in the City of Norwalk, O.

(c) Contract dated December 30, 1922, between The New York Central Railroad Company and F. H. Wilson, Receiver of The Cleveland Southwestern & Columbus Railway Company in respect to crossing the right of way and track of said The New York Central Railroad Company.

(d) Facility License by and between Receivers of The Central Union Telephone Co. and The Cleveland Southwestern & Columbus Railway Co. dated February

11, 1919, with respect to joint use of poles in the City of Norwalk, O.

(e) Agreement between The Central Union Telephone Company and The Cleveland Southwestern & Columbus Railway Company dated November 20, 1919, with respect to joint use of poles in the City of Norwalk, Ohio.

Said right of way hereinbefore described being so much of the railroad right of way and other lands of the Grantor hereinbefore described as may be necessary to construct, maintain and operate said pole line as aforesaid.

Together with all right, title and interest of the Grantor in and to said right of way for the maintenance of a pole line as aforesaid between said point of intersection of the Elyria-Oberlin Road and East Lorain Street of the Village of Oberlin, Ohio, extended, east of Oberlin and the Sub-station and power house of the Grantor in the City of Norwalk, Huron County, Ohio, whether acquired by deed, grant of easement, franchise, license, contract or otherwise, and whether specifically set forth and described or referred to herein, or not so set forth;

Together also with all right, title and interest of the Grantor in and to any rights of way for a pole line, pole line rights, pole lines, poles and any licenses, franchises, easements or grants for said purposes, possessed or enjoyed by the Grantor in the City of Norwalk, Ohio, and/or used in connection with the distribution of power, light and heat by the Grantor in said city;

Together also with all right, title and interest of the Grantor for the maintenance of a pole line and to any easement, grant, privilege, franchise or license for the maintenance or construction of pole lines or poles and the privileges in connection therewith in the Village of Oberlin, extending from the high tension line of the Grantor in the Village of Oberlin to the Oberlin Water Works and the Sub-station property in connection therewith.

It being the intent of the Grantor by this conveyance, to convey to said Grantee any and all rights of the Grantor in connection with the maintenance of a pole line hereinbefore described from the intersection of the Elyria-Oberlin Road and East Lorain Street of the Village of Oberlin, Ohio, extended, east of Oberlin to the Sub-Station and Power House of the Grantor in the City of Norwalk, Huron County, Ohio, including therein any easements, franchises, licenses, contracts, privileges and any rights and interests of the grantor in connection with

said pole line in the Village of Oberlin, in said City of Norwalk and in and to said pole line between said points hereinbefore set forth and in and to any tributary lines extending from or to said pole line between the points aforesaid.

Said franchises, deeds, grants, easements, licenses and other rights and privileges of the Grantor having been acquired by the Grantor by deed of F. H. Wilson, Special Master, dated April 30, 1924, in pursuance of foreclosure sale held March 14, 1924, under the provisions of Decree of Foreclosure in the case of The General Electric Company vs. The Cleveland Southwestern & Columbus Railway Company, et al., being No. 690 in equity in the District Court of the United States for the Northern District of Ohio, Eastern Division; which Decree of Foreclosure, the order of confirmation of said sale at foreclosure and the deed of F. H. Wilson, Special Master, delivered in pursuance thereof are of record in the several counties in which the several deeds, grants, easements, licenses and other rights and privileges herein conveyed are situated.

To Have and To Hold the premises aforesaid, with the appurtenances thereunto belonging, to the said Grantee, his heirs and assigns, so that neither the said Grantor, nor its successors or assigns, nor any other persons claiming title through or under it, shall or will hereafter claim or demand any right or title to the premises, or any part thereof; but they and every one of them shall by these presents be excluded and forever barred.

In Witness Whereof, said corporation sets its hand and corporate seal by F. H. Wilson, its President and C. J. Mayers, its Secretary, this 31st day of December, 1924.

The Cleveland Southwestern Railway and Light Company,
By F. H. Wilson, President.
By C. J. Mayers, Secretary.

Signed in the presence of: (Corporate Seal)
C. E. McNisson,
L. M. Miller.

State of Ohio, Cuyahoga County, ss.

Before me, a Notary Public in and for said County, personally appeared the above named F. H. Wilson and C. J. Mayers, President and Secretary respectively of The Cleveland Southwestern Railway and Light Company, who acknowledge that they did sign the foregoing instrument and that the same is the free act and deed of

said corporation and the free act and deed of each of them personally and as such officers.

In Testimony Whereof I have hereunto set my hand and official seal at Cleveland, this 31st day of December, 1924.

Gardner Abbott,
Notary Public.

(Notarial Seal)

PLAINTIFF'S EXHIBIT No. 18

O.K. as to form—E. F. B., H. C. L.

Quit Claim Deed from The Cleveland Southwestern Railway and Light Co. to Victor Emanuel, dated Dec. 31, 1924.

Know All Men By These Presents That The Cleveland Southwestern Railway and Light Company, a corporation incorporated under the laws of the State of Ohio, Grantor, in consideration of the sum of Ten Dollars ($10.00) and other good and valuable considerations, received to its full satisfaction of Victor Emanuel, the Grantee, has given, granted, remised, released and forever quit-claimed, and does by these presents, absolutely give, grant, remise, release and forever quit-claim unto the said Grantee, his heirs and assigns forever, all such right, title and interest as it, the said Grantor, has or ought to have in and to the following described premises: Situated in the City of Norwalk, County of Huron and State of Ohio, and described as follows:

1. All that part of the east half of Great Lot No. 95 in Section 4 Norwalk Township, bounded on the north by the right of way of The Wheeling & Lake Erie Railroad Company, on the west by the west line of the east half of said Lot No. 95; on the South by the North line of a right of way sixty six feet wide running parallel with said Railroad right of way and 132 feet (measured

at right angles) distant therefrom, and on the east by a line running parallel with said west line of said east one-half of lot 95 and 278.04 feet easterly therefrom. Also a right in common with C. H. Gallup and Lizzie F. Gallup, their heirs and assigns to said sixty six foot right of way, viz.: A strip of land sixty six feet wide running from Woodlawn Avenue on the east to the west line of said east half of Lot No. 95 on the west, the north boundary line of said strip of land being distant (measured at right angles) 132 feet from the south line of said Wheeling & Lake Erie Railroad Company's right of way and running parallel therewith.

2. Also a leasehold of four by ten rods off the west end of said sixty six foot strip, for description of land and extent of title leased, reference is hereby made to lease record, Vol. 2, pages 12 and 13, Huron County, Ohio.

To Have and To Hold the premises aforesaid, with the appurtenances thereunto belonging to the said Grantee, his heirs and assigns, so that neither the said Grantor nor its successors or assigns, nor any persons claiming title through or under it, shall or will hereafter claim any right or title to the premises or any part thereof; that they and every one of them shall by these presents be excluded and forever barred.

In witness whereof, said corporation sets its hand and corporate seal, by F. H. Wilson, its president and C. J. Mayers, its secretary, this 31st day of December, 1924.

The Cleveland Southwestern Railway
and Light Company
By F. H. Wilson, President
By C. J. Mayers, Secretary.

Signed in the presence of (Seal)
A. M. Nisson
L. M. Miller.

State of Ohio, Cuyahoga County, ss.

Before me, a Notary Public in and for said County, personally appeared the above named F. H. Wilson and C. J. Mayers, president and secretary respectively of The Cleveland Southwestern Railway and Light Company, who acknowledged that they did sign the foregoing instrument, and that the same is the free act and deed of said corporation and the free act and deed of each of them personally and as such officers.

In testimony whereof, I have hereunto set my hand

and official seal at Cleveland, Ohio, this 31st day of December, A. D. 1924.

Gardner Abbott,
(Seal) Notary Public.

$10.00 U. S. R. stamp attached and cancelled.

The above deed was received for record by the Recorder of Huron County, Ohio, February 5, 1925, at 9:30 A.M., and recorded February 6, 1925, in Deed Records of Huron County, Ohio, Volume 106, pages 586 and 587.

PLAINTIFF'S EXHIBIT No. 19

O.K. as to form—E. F. B., H. C. L.

Before
THE PUBLIC UTILITIES COMMISSION OF OHIO

No. 3444

In the matter of the Joint Application of Victor Emanuel and Ohio Electric Power Company for authority to respectively sell and purchase public utility property.

JOINT PETITION

Come now Victor Emanuel and Ohio Electric Power Company, pursuant to the provisions of Sec. 614-60, General Code of Ohio, and, representing and showing to your Honorable Commission:

1. That your applicant, Victor Emanuel, is a citizen and resident of the City of New York, State of New York, who now owns and operates as a public utility subject to the jurisdiction of your Honorable Commission, the electrical utility property specifically known as

(1) The three-phase, high tension electric line extending from the power house and substation of The Cleveland Southwestern Railway and Light Company in the City of Norwalk, Ohio, to the point of connection of said line with the right-of-way of said Railway and Light Company at or near the intersection of the Elyria-Oberlin Road and East Lorain Street of the Village of Oberlin, Ohio, extended east of Oberlin;

(2) The three-phase, high tension electric line extending from the west property line of the Elyria car shops of said The Cleveland Southwestern Railway and Light Company in the City of Elyria, Ohio, to the aforesaid point of intersection of the right-of-way of said Railway and Light Company and the (1) transmission line, and

(3) Certain equipment and pole line and pole line rights, together with substations at Oberlin, Birmingham and Norwalk, Ohio, and a power station at Norwalk, Ohio, and distribution wires and equipment appurtenant thereto and used for the distribution of electrical energy to consumers thereof in said City of Norwalk and along said transmission lines, and certain primary and secondary power and light lines or wires, including a line to Kipton, Ohio, a summary of which property with the fair reproductive cost new thereof, and the accrued depreciation, and the reasonable present value whereof, is as follows, to-wit:

Item	Reproduction Cost	Depreciation Pct.	Depreciation Amount	Present Value
Real Estate, Norwalk.	1,500.00	0	0	1,500.00
Power House, Bldgs. & Stock Norwalk.	21,700.00	31	6,785.00	14,915.00
Power House Equipment ...	48,441.00	58	22,187.00	20,254.00
Substations. ...	4,475.00	10	445.00	4,030.00
Distribution Systems	46,155.00	18	8,257.00	37,898.00
Transmission Lines.	88,619.00	35	29,448.00	59,171.00
Office Furniture and Tools.....	1,320.00	28	375.00	945.00
Physical Property ...	$212,210.00	35	$73,497.00	$138,713.00
Organization, etc. 7%				9,710.00

Working Capital, Materials and Supplies 5%.	6,936.00
Cost of Attaching Business, 598 Customers @ $10.00	5,980.00
	$161,339.00

which said inventory has heretofore been checked by the engineers of your Honorable Commission and which said valuation figures have been investigated and approved by such engineers.

(2) That your applicant, Ohio Electric Power Company, is a corporation duly organized and existing under and by virtue of the laws of the State of Ohio and, in contemplation of its project of ultimately owning and operating public utility properties throughout the Commonwealth of Ohio has heretofore, with the consent and approval of your Honorable Commission, acquired and now owns and operates the public utility properties furnishing electric and gas service in the incorporated communities of Oberlin and Ravenna, Ohio;

(3) That your applicant, Victor Emanuel, has found it inexpedient to continue the operation, individually, of said public utility property aforesaid and finds that his co-applicant, the said Ohio Electric Power Company is willing to assume the responsibilities incident to the ownership and operation of said property;

(4) That, subject to the consent and approval of your Honorable Commission, your applicants have negotiated and made and entered into an agreement whereby and whereunder, for the agreed consideration $161,300.00, payable in cash, your applicant, the said Victor Emanuel, will sell and convey to your applicant, the said Ohio Electric Power Company all right and title to the public utility aforesaid, and

(5) That your applicants believe, and for full compliance with the provisions of the General Code of Ohio in such case made and provided, allege that the public will, upon the consummation of said proposed sale and purchase of said public utility property, be furnished adequate service for a reasonable and just rate, rental, toll or charge therefor.

Pray, That your Honorable Commission will cause such investigation and inquiries to be herein made and to examine such books, records and property as it deems necessary and proper and, thereupon, make and enter its order consenting to and approving the sale by your applicant, Victor Emanuel, and the purchase and acquisition by your applicant, Ohio Electric Power Company, of said property aforesaid, and giving and granting unto

your applicants all other and further relief which may be necessary and proper in the premises.

Victor Emanuel
Ohio Electric Power Company
By E. A. Shrider, Vice President
Attest: F. B. Fauver, Secretary.

State of New York, County of New York, ss:

Victor Emanuel, being first duly sworn, upon oath deposes and says that he is one of the parties Applicant in the foregoing Joint Petition; that he has read said Joint Petition and knows the contents thereof, and that the same are true to the best of his knowledge and belief.

Victor Emanuel

Sworn to and subscribed in my presence by the said Victor Emanuel, this 26th day of January, A. D. 1925.

William L. O'Connor
Notary Public

State of Ohio, County of Shelby, ss:

E. A. Schrider, being first duly sworn, upon oath deposes and says that he is an officer, to-wit: Vice President of Ohio Electric Power Company, one of the parties to the foregoing Joint Petition; that said Company is a corporation, and that he knows the contents of said Joint Petition and that the same are true to the best of his knowledge and belief.

E. A. Schrider

Sworn to and subscribed in my presence by the said E. A. Schrider, this 27th day of January, A. D. 1925.

Robert E. Marshall
Notary Public, Shelby County, Ohio.

State of Ohio, County of Lorain, ss:

L. B. Fauver, being first duly sworn, upon oath deposes and says that he is an officer, to-wit: Secretary of Ohio Electric Power Company, one of the parties to the foregoing Joint Petition; that said company is a corporation; that he knows the contents of said Joint Petition, and that the same are true to the best of his knowledge and belief.

L. B. Fauver

Sworn to and subscribed in my presence by the said L. V. Fauver this 29th day of January, A. D. 1925.

Florence Hamel
Notary Public.

CERTIFICATION

State of Ohio, County of Franklin, ss:

I, Ira E. Sprankle, the duly appointed, qualified and acting Superintendent of Investigation, in whose custody the books, papers, documents and records are filed, do hereby Certify there is transmitted herewith a true and correct copy of the application filed in Proceeding No. 3444, being

In the matter of the joint application of Victor Emanuel and Ohio Electric Power Company for authority to respectively sell and purchase public utility property.

In Witness Whereof, I have hereunto set my hand and affixed the official seal of The Public Utilities Commission of Ohio, at Columbus, Ohio, this thirteenth day of January, A. D. 1930.

Ira E. Sprankle
Superintendent of Investigation
The Public Utilities Commission of Ohio

PLAINTIFF'S EXHIBIT No. 20

O.K. as to form—E. F. B., H. C. L.

BEFORE
THE PUBLIC UTILITIES COMMISSION OF OHIO

No. 3444

In the matter of the joint application of Victor Emanuel and Ohio Electric Power Company for authority to respectively sell and purchase public utility property.

This day, it appearing to the Commission from the verified allegations in said application and the sworn statements and exhibits filed in connection therewith,

and other documentary evidence submitted, that the taking of oral testimony herein is unnecessary, this matter came on for consideration upon the joint application of Victor Emanuel of New York, New York, the present owner and operator of the electric transmission line extending, generally from Oberlin to Norwalk, and Elyria, and the electric distribution system in the City of Norwalk, Ohio, and the Ohio Electric Power Company, a corporation duly organized and existing under and by virtue of the laws of the State of Ohio, asking the consent to and approval, by this Commission of the sale, by said first named party and the purchase and acquisition by the latter, of said electrical utility property.

The Commission, being fully advised in the premises, finds from the pleadings and exhibits filed herein and its independent inquiry and investigation thereupon:

That, for purchase and sale purposes, the value of said electric utility property is not less than the sum of $161,339.00, and

That the public will, upon the consummation of said proposed sale and purchase of said public utility property, be furnished adequate service for a reasonable and just rate, rental, toll or charge therefor, and is satisfied that consent for said sale and purchase of property should be granted. It is, therefore,

Ordered, That said Victor Emanuel be, and hereby he is authorized to sell and convey to the said Ohio Power Company the property more specifically described in the application herein, which application, insofar as it describes and identifies the said property hereby is made a part of this order by reference, and consisting, generally, of the electric transmission line extending from Oberlin to Norwalk and Elyria, Ohio, with appurtenant distribution plant, including the distribution plant in the City of Norwalk, Ohio; and the said Ohio Electric Power Company hereby is authorized to purchase and acquire said property and to pay therefor the agreed consideration of $161,300.00. It is further

Ordered, That, forthwith upon the exercise of the authority herein granted, the said parties file with this Commission schedules providing for their respective withdrawal from an inauguration of service within the territory now served by means of said property. It is further

Ordered, That nothing herein shall be construed to be a consent to or approval by this Commission of any increase in rates or diminution of service within the territory now served by means of said property, nor shall

the findings hereinbefore set forth as to the value of said property, rates and service, nor the within acquiescence in the passing of the agreed consideration, be binding upon this Commission in any future proceedings involving rates or service.

The Public Utilities Commission of Ohio
Charles C. Marshall, Chairman.
George T. Poor,
Frank B. Maullar,
Commissioners.

Dated at Columbus, Ohio
This fourth day of February, 1925.

CERTIFICATION

State of Ohio, County of Franklin, ss:

I, Ira E. Sprankle, the duly appointed, qualified and acting Superintendent of Investigation, in whose custody the books, papers, documents and records are filed, do hereby Certify there is transmitted herewith a true and correct copy of the order of The Public Utilities Commission of Ohio in Proceeding No. 3444, being

In the matter of the joint application of Victor Emanuel and Ohio Electric Power Company for authority to respectively sell and purchase public utility property.

In Witness Whereof, I have hereunto set my hand and affixed the official seal of The Public Utilities Commission of Ohio, at Columbus, Ohio, this thirteenth day of January, A. D. 1930.

Ira E. Sprankle (Signed)
Superintendent of Investigation
The Public Utilities Commission of Ohio.

PLAINTIFF'S EXHIBIT No. 21

O.K. as to form—E. F. B., H. C. L.

THESE ARTICLES OF INCORPORATION
OF
OHIO ELECTRIC POWER COMPANY

Witnesseth, That we the undersigned, Robert E. Marshall, E. A. Shrider, H. M. Phillippi, H. L. Christman and L. L. Stahler, all of whom are citizens of the State of Ohio, desiring to form a corporation, for profit, under the general laws of the said State, do hereby certify:

First. The name of said corporation shall be Ohio Electric Power Company.

Second: Said corporation is to be located at Sidney, Shelby County, Ohio, and its principal business there transacted.

Third: Said corporation is formed for the purpose of building, owning, acquiring, leasing, operating and maintaining power plants, equipment, appliances and appurtenances thereto together with the erection, construction, maintenance and operation of the necessary pole lines, posts, piers, abutments, wires, cables, and conduits and incidental thereto to drill for gas, produce gas, incident to its business, to lay pipes, conduits, manholes, mains, and other appliances and fixtures necessary and proper for the generating, manufacturing, producing, procuring, selling, furnishing, supplying, conducting, carrying, transmitting, and distributing to public and private buildings, avenues, lanes, alleys, and squares and public places, and to public and private consumers, steam and hot water, electrical power, light and energy and natural and artificial gas for light, heat and other purposes, in the several municipalities, counties, and political and governmental subdivisions thereof, in the State of Ohio. Also to acquire all franchises necessary to the full exercise of said powers. And incidental to said purpose to acquire and use street railways, to own, buy, sell, exchange, lease and generally deal in electrical equipment, appliances, utensils, devices and machinery, to have one or more offices, places of business, plants or factories; and to hold, purchase or otherwise acquire or to mortgage, sell or convey real or personal property within or outside the State of Ohio; to apply for, register, acquire and to use, hold, transfer, sell and dispose of any patent rights, trade-marks, trade names, copyrights; to acquire, operate or dispose of any property, interests or things of value along its lines or within the territory

contiguous; to erect, purchase, hold, take or lease or otherwise acquire buildings or property which may be necessary for its business; to borrow money or contract debts within the lawful exercise of its corporate privilege or franchises or for any other lawful purpose or purposes and to use and dispose of its obligations therefor; and to secure the payment of all such obligations by mortgage or mortgages upon any or all of the property of every character of said corporation; and to purchase, acquire, take, receive, hold, own, sell, or otherwise dispose of the capital stock, bonds, debentures, securities or other obligations or evidences of indebtedness of any other person, firm or corporation, private or public, municipal or otherwise, necessary or proper for the transaction of its business or for the exercise of its corporate rights, privileges or franchises or for any other lawful purpose; and to execute, make, give and perform any and every agreement or contract, necessary or desirable for carrying on any or all of the business of said corporation and to do all and everything necessary, suitable or proper for the accomplishment of the purposes or attainment of any of the objects herein enumerated and which shall, at any time, appear expedient for the benefit or protection of said corporation or its rights, property or assets or calculated to enhance the value thereof, and to do any and all of the things herein set forth to the same extent as a natural person might or could do and in furtherance and not in limitation of the general powers conferred by the laws of the State of Ohio; and also to do and perform all other things that it may legally do.

Fourth. The total number of authorized shares which may be issued by the corporation is fifteen thousand (15,000) shares of which five thousand (5,000) shares shall be common shares without nominal or par value and ten thousand (10,000) shares shall be preferred shares of the par value of One Hundred ($100) Dollars each.

The terms and provisions under which the preferred stock shall be issued are as follows:

The holders of the preferred stock are entitled to receive, when and as declared, from the surplus and/or net profits of the corporation, dividends at the rate of, but never exceeding, seven per centum per annum on the par value thereof, payable quarterly on dates to be fixed by the Regulations. The dividends on such preferred stock shall be cumulative and shall be payable before any dividends on the common stock shall be paid or set apart, so that if in any year dividends amounting to seven per

centum shall not have been paid on such preferred stock, the deficiency shall be payable before any dividends shall be paid upon or set apart for the common stock. Whenever all cumulative dividends on the preferred stock for all previous years shall have been declared and shall have been paid, and the accrued quarterly installments for the current year shall have been declared and shall have been paid, or there shall have been set aside from the surplus and/or net profits of the corporation a sum sufficient for the payment thereof, the Board of Directors may declare dividends on the common stock, payable then or thereafter, out of the remaining surplus and/or net profits. In the event of liquidation, dissolution or winding up, whether voluntary or involuntary, of the corporation, the holders of the preferred stock shall be entitled to be paid in full both the par amount of their shares and the unpaid cumulative dividends accrued thereon and no more, before any amount shall be paid to the holders of the common stock, and after such payment in full to the holders of the preferred stock of its par value and the unpaid accrued cumulative dividends thereon, the remaining assets and funds shall be divided among and paid to the holders of the common stock, according to their respective shares. The right and privilege is reserved to the corporation on any dividend payment date, as and when and in the manner determined by its Board of Directors to redeem all or any part of the preferred stock of the corporation by paying to the holders thereof One Hundred ten (110) Dollars per share and the amount of all cumulative dividends accrued and unpaid thereon at the date fixed for such redemption, provided that thirty days previous notice of such proposed redemption shall have been given to the holders of the shares to be redeemed by mailing such notice to them at their respective addresses as shown on the books of the corporation. From and after the date fixed in any such notice as the date of redemption (unless default be made by the corporation in the payment of the redemption price pursuant to such notice) all dividends on the shares of the said preferred stock called for redemption shall cease to accrue, and all rights of the holders thereof, as stockholders of the corporation, except the right to receive the redemption price, shall cease and determine.

The voting power of shares shall be vested wholly in the holders of the shares of the common stock, except as hereinafter provided. The preferred capital stock shall have no voting power whatever, except and unless

the corporation shall default in quarterly dividend payments aggregating seven (7%) per cent. in which event the holders of the preferred stock shall be entitled to vote their shares in the manner now provided by Statute, until such default shall be made good, whereupon such voting powers shall cease and determine until and unless a like default occurs.

The corporation shall not, without the affirmative vote or written consent of the holders of two-thirds in amount of the outstanding preferred stock, create or issue any shares of stock which shall have any preference or priority over the preferred stock, nor shall any amendment to the charter of the corporation be made diminishing the rights of the holders of the preferred stock without like vote or written consent.

Fifth. The amount of common capital with which the corporation will begin to carry on business is Five Hundred ($500) Dollars.

In Witness Whereof, we have hereunto set our hands, this 9th day of August, 1924.

Robert E. Marshall
E. A. Shrider
H. M. Phillippi
H. L. Christman
L. L. Stahler.

The State of Ohio, County of Shelby, ss.

Personally appeared before me, the undersigned, a Notary Public, in and for said County, this 9th day of August, A. D. 1924, the above named Robert E. Marshall, E. A. Shrider, H. M. Phillippi, H. L. Christman, and L. L. Stahler, who each severally acknowledged the signing of the foregoing articles of incorporation to be his free act and deed, for the uses and purposes therein mentioned.

Witness my hand and official seal on the day and year last aforesaid.

J. C. Royon,
Notary Public.

(Seal)

The State of Ohio, County of Shelby, ss.

I, William A. Darst, Clerk of the Court of Common Pleas, within and for the County aforesaid, do hereby certify that J. C. Royon, whose name is subscribed to the foregoing acknowledgment as a Notary Public, was, at the date thereof, a Notary Public, in and for said County, duly commissioned and authorized as such to take said acknowledgment; and further, that I am well acquainted

with his handwriting, and believe that the signature to said acknowledgment is genuine.

In Witness Whereof, I have hereunto set my hand and affixed the seal of said Court, at Sidney, Shelby County, Ohio, this 9th day of August, A. D. 1924.

William A. Darst,
Clerk.

(Seal)

United States of America, State of Ohio,
Office of the Secretary of State.

I, Clarence J. Brown, Secretary of State of the State of Ohio, do hereby certify that the foregoing is an exemplified copy, carefully compared by me with the original record now in my official custody as Secretary of State, and found to be true and correct, of the Articles of Incorporation of Ohio Electric Power Company filed in this office on the 12th day of August, A. D. 1924, and recorded in Volume 314, Page 261, of the Records of Incorporations.

Witness my hand and official seal, at Columbus, this 14th day of January, A. D. 1930.

(Signed) Clarence J. Brown,
Secretary of State.

(Seal)

PLAINTIFF'S EXHIBIT No. 22

O.K. as to form—E. F. B., H. C. L.

BILL OF SALE

Victor Emanuel, Grantor
Ohio Electric Power Company, Grantee

Know All Men by These Presents, that Victor Emanuel, in consideration of the sum of Ten Dollars ($10.00) and other good and valuable considerations, received to his full satisfaction of Ohio Electric Power Company, an Ohio Corporation, the Grantee, does hereby grant, convey, assign, transfer and deliver unto said

Ohio Electric Power Company, its successors and assigns, all and singular, the following described property, to-wit:

(a) That certain three phase high tension line, poles and equipment therefor between the power house and sub-station in the City of Norwalk of the Grantor and the point of intersection of the Elyria-Oberlin Road, and East Lorain Street in the Village of Oberlin extended, east of Oberlin.

(b) That certain three phase high tension line, poles and equipment therefor, extending from the high tension line hereinbefore described in Paragraph (a) hereof, to the Oberlin Water Works in the Village of Oberlin, together also with all sub-station equipment in connection therewith of the Grantor in the City of Oberlin, said equipment including all artitcles of personal property and all appurtenances in and to said high tension line mentioned in this paragraph.

(c) All primary and secondary light lines of the Grantor located on the poles referred to in Paragraphs (a) and (b) hereof and, or used in connection with the power and light business of the Grantor, including (1) approximately 3.9 miles of line between the city limits of the City of Norwalk and Stop 35 upon the Electric Interurban Railroad of the Grantor and (2) Line from point of connection with said high tension line described in Paragraph (a) hereof to and in the Village of Kipton, Ohio, and including all distribution power and light systems, transformers, meters, services and the equipment and appurtenances thereto, or used in connection therewith of the Grantor, within said Village of Kipton.

(d) All distribution power and light systems, transformers, meters, services and the equipment and appurtenances thereto or in connection therewith of the Grantor within the corporate limits of the City of Norwalk, Ohio, including approximately 8.3 miles of lines and poles of the Grantor, approximately 5.2 miles of lines on poles of others than the Grantor and approximately 4.3 miles of lines on poles owned jointly by the Grantor and others, together with all right, title and interest of the Grantor in and to the poles so occupied jointly.

(e) All equipment, material, appurtenances of the Grantor in and to the Power House and Sub-station of the Grantor in the City of Norwalk, Ohio, including boilers, engines, frequency changer, transformers, oil switches, metering equipment, rotary converter.

Also all switching equipment, transformers, appurtenances and other equipment in connection with said

three phase high tension line mentioned in Paragraph (a) hereof and located in the Railroad Station of the Grantor in the Village of Birmingham, Ohio, and used in connection with the commercial power and light business of the Grantor.

(f) That certain three phase high tension wire, cross arms, pins and insulators between the point of intersection of the Elyria-Oberlin Road and East Lorain Street of the Village of Oberlin extended, east of Oberlin (referred to in Paragraph (a)) and the point on the right-of-way of The Electric Interurban Railway of The Cleveland Southwestern Railway & Light Company where the Polk High Tension Line of the Grantor, so-called, intersects said railway right-of-way and the pole line in connection therewith at Stop 100 on said right-of-way, more commonly known as Wack's Cheese Factory.

(g) That certain three phase high tension wire, pins and insulators located on the north side of poles of The Cleveland Southwestern Railway & Light Company between said Stop 100 referred to in Paragraph (f) hereof and the west property line of the car shops of the said The Cleveland Southwestern Railway & Light Company in the City of Elyria, Ohio.

It being the intention of the Grantor to assign, transfer, convey and deliver unto the Grantee, all personal property, equipment and appurtenances used by the Grantor in the conduct of his business of furnishing and supplying electrical energy for heat, light and power between said point of intersection of the Elyria-Oberlin Road and East Lorain Street in the Village of Oberlin extended, east of Oberlin, and the Power House and Substation of the Grantor in the City of Norwalk, or useful in the conduct of said business; excepting, however, therefrom the trolley wires, feeder wires, telephone wires, cross arms and attachments in connection therewith, belonging to the Grantor upon the poles supporting said high tension line between said City of Norwalk and point of intersection east of Oberlin.

Said property being the same property acquired by the Grantor from The Cleveland Southwestern Railway & Light Company, by Bill of Sale dated December 31, 1924.

To Have and To Hold the same unto said Grantee, its successors or assigns forever. And the said Grantor hereby covenants to and with the said Grantee that said Grantor is the lawful owner of the above-described goods and chattels; that the Grantor has good right and author-

ity to sell the same as aforesaid, and that said Grantor will warrant and defend the same against all lawful claims and demands whatsoever.

In Witness Whereof, Victor Emanuel has hereunto set his hand and seal at New York City, N. Y., as of the 22d day of May, 1925.

Victor Emanuel (Signed)

Signed in the presence of:
F. D. Reid (Signed)
C. B. Zeigler (Signed)

PLAINTIFF'S EXHIBIT No. 23

O.K. as to form—E. F. B., H. C. L.

QUIT-CLAIM DEED, DATED MAY 22, 1925, FROM VICTOR EMANUEL TO OHIO ELECTRIC POWER CO.

QUIT-CLAIM DEED

Property Located in the City of Norwalk, Ohio.

Know All Men by These Presents, That I, Victor Emanuel, in consideration of the sum of Ten Dollars ($10.00) and other good and valuable considerations, received to my full satisfaction of Ohio Electric Power Company, a corporation organized and existing under the laws of the State of Ohio, the Grantee, have given, granted, remised, released and forever quit-claimed, and do by these presents, absolutely give, grant, remise, release and forever quit-claim unto the said Grantee, its successors and assigns forever, all such right, title and interest as I, the said Grantor, have or ought to have in and to the following described premises:

Situated in the City of Norwalk, County of Huron and State of Ohio, and described as follows:

1. All that part of the east half of Great Lot No. 95 in Section 4 Norwalk Township, bounded on the north by the right-of-way of The Wheeling & Lake Erie Railroad Company, on the west by the west line of the east half of said lot No. 95; on the south by the north line of a right-of-way sixty-six feet wide running parallel with said Railroad right-of-way and 132 feet (measured at right angles) distant therefrom, and on the east by a line running parallel with said west line of said east one-half of lot 95 and 278.04 feet easterly therefrom. Also a right in common with C. H. Gallup and Lizzie F. Gallup, their heirs and assigns, to said sixty-six foot right-of-way, viz.: A strip of land sixty-six feet wide running from Woodlawn Avenue on the east to the west line of said east half of Lot No. 95 on the west, the north boundary line of said strip of land being distant (measured at right angles) 132 feet from the south line of said Wheeling & Lake Erie Railroad Company's right-of-way and running parallel therewith.

2. Also a leasehold of four by ten rods off the west end of said sixty-six foot strip, for description of land and extent of title leased, reference is hereby made to lease record Vol. 2, pages 12 and 13, Huron County, Ohio.

Said premises being the same deeded to this Grantor by the Cleveland Southwestern Railway & Light Company under date of December 31, 1924.

To Have and To Hold the premises aforesaid, with the appurtenances thereunto belonging to the said Grantee, its successors and assigns, so that neither the said Grantor, nor his heirs, administrators or assigns, nor any person claiming title through or under him, shall or will hereafter claim any right or title to the premises or any part thereof; that they and every one of them shall by these presents be excluded and forever barred.

And for the consideration aforesaid, I, Dorothy Woodruff Emanuel, wife of the said Victor Emanuel, do hereby release unto the Grantee, its successors and assigns, all right of or to both dower and homestead in the granted premises.

In Witness Whereof, we, the said Victor Emanuel and Dorothy Woodruff Emanuel, his wife, have hereunto set our hands and seals this 22nd day of May, 1925.

Victor Emanuel, L.S.

Signed in the presence of:

C. B. Zeigler
W. R. Porter

Dorothy W. Emanuel, L.S.

C. B. Zeigler,
Kate Wilson.

State of New York, County of New York, ss.

Before me, Mae B. Coy, a Notary Public in and for said County, personally appeared the above-named Victor Emanuel and Dorothy Woodruff Emanuel, his wife, who severally acknowledged that they did sign the foregoing instrument and that the same is their voluntary and free act and deed.

In Testimony Whereof, I have hereunto set my hand and official seal at New York City, this 22nd day of May, 1925.

Mae B. Coy,
(Notarial Seal) Notary Public.

New York County Clerk's No. 383.
New York County Register's No. 7337.
Commission expires Mar. 30th, 1927.

PLAINTIFF'S EXHIBIT No. 24

O.K. as to form—E. F. B., H. C. L.

Assignment of Contracts, Rights, Franchises and Privileges from Victor Emanuel, Grantor, to Ohio Electric Power Company, Grantee.

Know All Men by These Presents, that Victor Emanuel, Grantor, in consideration of the sum of Ten Dollars ($10.00) and other good and valuable considerations received to his full satisfaction of Ohio Electric Power Company, the Grantee, does hereby sell, assign and convey to said Grantee, its successors or assigns, the following described agreements and contracts:

(a) Contract between the Village of Oberlin, County of Lorain and State of Ohio, Party of the First Part, and The Cleveland Southwestern and Columbus Railway Company, Party of the Second Part, dated November 29, 1919, approved by Ordinance of the Council of the Village of Oberlin, County of Lorain, Ohio, Au-

gust 19, 1919, which said contract was duly assigned to The Cleveland Southwestern Railway and Light Company, by said Cleveland Southwestern & Columbus Railway Company and F. H. Wilson, Special Master thereof, by assignment dated April 15th, 1924.

(b) Contract between the Farmers Electric Power and Light Company and The Cleveland Southwestern Railway and Light Company dated October 8, 1924.

(c) Contract by and between The Wakeman & Butler Road Electric Company, Ltd., an Ohio corporation and The Cleveland Southwestern Railway and Light Company dated October 15, 1924.

(d) Contract between The Cleveland Southwestern & Columbus Railway Company and the Mutual Power and Light Company, an Ohio corporation, dated March 15, 1919, which contract was assigned by The Cleveland Southwestern & Columbus Railway Company and F. H. Wilson, Special Master thereof, to The Cleveland Southwestern Railway & Light Company by assignment dated April 15th, 1924; together with Supplemental Agreement by and between said The Cleveland Southwestern & Columbus Railway Company and said The Mutual Light and Power Company dated October 16, 1923, and assigned to The Cleveland Southwestern Railway & Light Company by said assignment dated April 15, 1924.

(e) Agreement by and between certain persons designated as owners and using electric current for power, heat and light, and F. H. Wilson, Receiver of The Cleveland Southwestern & Columbus Railway Company dated October 25, 1922, and contracting with respect to a certain pole line running from Birmingham, Florence Township, Erie County, Ohio, to Kipton, Ohio, which contract is duly assigned by said F. H. Wilson, Special Master, to the Cleveland Southwestern Railway & Light Company by said assignment dated April 15th, 1924.

(f) Agreement between The Norwalk Gas and Electric Company and The Cleveland Southwestern Traction Company dated February 14, 1903, together with certified abstract from the records of the City of Norwalk, Ohio, recorded in Council Journal Volume 7, pages 65-75, consenting to such agreement, which agreement and the rights thereunder of said The Cleveland Southwestern Traction Company were transferred to The Cleveland Southwestern & Columbus Railway Company, successor to said The Cleveland and Southwestern Traction Company, and which agreement was duly assigned to The Cleveland Southwestern Railway and Light Company by said The Cleveland Southwestern & Columbus Railway

Company and F. H. Wilson, Special Master thereof, by assignment dated April 15, 1924. Together, also, with all contracts, franchises, grants, rights and privileges which the Grantor has or may have in the City of Norwalk, Ohio, in connection with the conduct of an electric light, heat and power business in said City.

(g) Agreement between certain owners desirous of securing electric current for power, light and heat, and F. H. Wilson, Receiver of The Cleveland Southwestern & Columbus Railway Company dated March 4, 1922, and assigned by said F. H. Wilson, Special Master aforesaid, to The Cleveland Southwestern Railway and Light Company by assignment dated April 15th, 1924.

(h) Together also with all contracts or agreements of the Grantor for the furnishing of light, heat and power from the certain three phase high tension lines of the Grantor assigned, transferred and conveyed to the Grantor by Bill of Sale from The Cleveland Southwestern Railway & Light Company, dated December 31, 1924, and extending from the west property line of the Elyria car barns of The Cleveland Southwestern Railway & Light Company to the City of Norwalk; and any such contracts or agreements in the corporate limits of the Village of Oberlin, Ohio, and also such contracts, franchises, rights, privileges and agreements of the Grantor in the City of Norwalk, Ohio.

Such rights and privileges having been acquired by deed of assignment to this Grantor from The Cleveland Southwestern Railway & Light Company under date of December 31, 1924, to which reference is hereby made. It being hereby the intention to convey to the Grantee all the right, title and interest acquired by Grantor under and by virtue of said deed above mentioned, and under and by virtue of the contracts therein referred to.

In Witness Whereof, Victor Emanuel has hereunto set his hand and seal, at New York City, N. Y., this 22nd day of May, 1925.

Victor Emanuel

Witnesses:
F. D. Reid,
C. B. Zeigler.

PLAINTIFF'S EXHIBIT No. 25

O.K. as to form—E. F. B., H. C. L.

Quit Claim Deed from Victor and Dorothy W. Emanuel to Ohio Electric Power Co., Dated May 22, 1925.

Know All Men by These Presents That I, Victor Emanuel, in consideration of the sum of Ten Dollars ($10.00) and other good and valuable considerations, received to my full satisfaction of Ohio Electric Power Company, a corporation organized and existing under the laws of the State of Ohio, the Grantee, have given, granted, remised, released and forever quit-claimed, and do by these presents, absolutely give, grant, remise, release and forever quit claim unto the said Grantee, its successors and assigns forever, all such right, title and interest as I, the said Grantor, have or ought to have in and to the following described premises: Situated in the City of Norwalk, County of Huron and State of Ohio, and described as follows:

1. All that part of the east half of Great Lot No. 95 in Section 4 Norwalk Township, bounded on the north by the right of way of The Wheeling & Lake Erie Railroad Company, on the west by the west line of the east half of said Lot No. 95; on the south by the north line of a right of way sixty six feet wide running parallel with said Railroad right of way and 132 feet (measured at right angles) distant therefrom and on the east by a line running parallel with said west line of said east one-half of lot 95 and 278.04 feet easterly therefrom. Also a right in common with C. H. Gallup and Lizzie F. Gallup, their heirs and assigns to said sixty six foot right of way, viz.: A strip of land sixty six feet wide running from Woodlawn Avenue on the east to the west line of said east half of Lot No. 95 on the west, the north boundary line of said strip of land being distant (measured at right angles) 132 feet from the south line of said Wheeling & Lake Erie Railroad Company's right of way and running parallel therewith.

2. Also a leasehold of four by ten rods off the west end of said sixty six foot strip, for description of land and extent of title leased, reference is hereby made to lease record Vol. 2 pages 12 and 13, Huron County, Ohio. Said premises being the same deeded to this Grantor by the Cleveland Southwestern Railway & Light Company under date of December 31, 1924.

To Have and To Hold the premises aforesaid, with the appurtenances thereunto belonging to the said

Grantee, its successors and assigns, so that neither the said Grantor nor his heirs, administrators or assigns, nor any person claiming title through or under him, shall or will hereafter claim any right or title to the premises or any part thereof; that they and every one of them shall by these presents be excluded and forever barred. And for the consideration aforesaid, I, Dorothy Woodruff Emanuel, wife of said Victor Emanuel, do hereby release unto the Grantee, its successors and assigns, all right of or to both dower and homestead in the granted premises.

In Witness Whereof, we the said Victor Emanuel and Dorothy Woodruff Emanuel, his wife, have hereunto set our hands and seals, this 22nd day of May, 1925.

Victor Emanuel L.S.
Dorothy W. Emanuel L.S.

Signed in the presence of:
C. B. Zeigler W. R. Porter
C. B. Zeigler Kate Wilson

State of New York, County of New York, ss.

Before me, Mae B. Coy, a Notary Public in and for said County, personally appeared the above named Victor Emanuel and Dorothy Woodruff Emanuel, his wife, who severally acknowledged that they did sign the foregoing instrument and that the same is their voluntary and free act and deed. In testimony whereof, I have hereunto set my hand and official seal at New York City, this 22nd day of May, 1925.

(Notarial Seal) Mae B. Coy.
New York County Clerk's No. 383.
New York County Register's No. 7737.
Commission expires Mar. 30th, 1927.

State of New York, County of New York, ss.
No. 9279 Series B

I, James A. Donegan, Clerk of the County of New York, and also Clerk of the Supreme Court for the said County, the same being a Court of Record, having a seal, do hereby certify that Mae B. Coy whose name is subscribed to the deposition or certificate of the proof or acknowledgment of the annexed instrument, and thereon written, was at the time of taking such deposition or proof and acknowledgment, a Notary Public in and for such County, duly commissioned and sworn, and authorized by the laws of said State, to take depositions and to administer oaths to be used in any Court of said State and for general purposes; and also to take acknowledg-

ments and proofs of deeds, or conveyances for land, tenements or hereditaments in said State of New York. And further, that I am well acquainted with the hand writing of such Notary Public, and verily believe that the signature to said deposition or certificate of proof or acknowledgment is genuine.

In testimony whereof, I have hereunto set my hand and affixed the seal of said Court and County, the 23rd day of May, 1925.

(Seal) James A. Donegan, Clerk.

$10.00 U. S. R. Stamp attached and cancelled.

The above deed was received for record by the Recorder of Huron County, Ohio, May 27, 1925, and recorded May 27, 1925, in Deed Records of Huron County, Ohio, Volume 107, pages 398 and 399.

PLAINTIFF'S EXHIBIT No. 26

O.K. as to form—H. C. L., E. F. B.

#151002—General Electric Company to Cleveland, Southwestern & Columbus Railway Company, et al.

The United States of America, Northern District of Ohio, Eastern Division, ss.

At a stated term of the District Court of the United States, within and for the Eastern Division of the Northern District of Ohio, begun and held at the City of Cleveland, in said District on the first Tuesday in April, being the first day of said month, in the year of our Lord one thousand nine hundred twenty-four, and of the Independence of the United States of America, the one hundred and forty-eighth, to-wit: on Monday, the 7th day of April, A. D. 1924. Present: Honorable D. C. Westenhaver, United States District Judge. Among the proceedings then and there had were the following, to-wit:

In the United States District Court, Northern District of Ohio, Eastern Division

In Equity No. 690

General Electric Company, Complainant,
vs.
Cleveland, Southwestern & Columbus Railway Company, et al., Defendants.

Order of Confirmation

This cause coming on this day to be heard upon the return of sale and report of F. H. Wilson, Special Master, of the sale of the properties mentioned in the decree entered in this cause on February 9, 1924, and upon the motion of the intervening petitioner, The Guardian Savings & Trust Company, Trustee, for the approval of said report and the rejection of bids on separate parcels, and for the confirmation of the sale of said properties as a whole.

The Court finds: that pursuant to said said decree entered February 9, 1924, the said Special Master F. H. Wilson, did duly advertise the sale of said properties by publication of a due and proper notice thereof in the Cleveland Plain Dealer, a newspaper published in Cleveland, Cuyahoga County, Ohio, and of general circulation in the Counties of Huron, Lorain, Cuyahoga, Medina, Wayne, Ashland, Richland and Crawford, Ohio, on February 13, 20, and 27, and March 4, 1924, and that the said notice of sale and publication thereof conforms in all respects to the orders of this Court and the statutes in such cases made and provided.

The Court further finds that the said Special Master did, in pursuance to the decree of this Court file schedules of properties and contracts with the Clerk of this Court not less than ten days prior to the date of such sale.

The Court further finds that the said sale was held in all respects in accordance with the orders of this Court and in accordance with law, and that the report and recommendations of the Special Master are reasonable and proper, and that the bid of John S. Fleek for the properties as a whole is a reasonable and proper sum and price therefor.

The Court further finds that said John S. Fleek has nominated The Cleveland, Southwestern Railway & Light Company to receive title to and possession of all of said properties purchased by said John S. Fleek as aforesaid.

The Court further finds that the expenses and allowance of the Trustees, their Counsel and of the Special Master as set forth in Exhibits "A" and "B" are proper.

The Court further finds that there is necessary for the payment of expenses found in Article X (a) and (b) of decree of foreclosure entered herein February 9, 1924, the sum of Thirty Thousand Two Hundred Eight and 95/100 Dollars ($30,208.95) which amount must be paid in cash; that there is in possession of the Receiver of this Court sufficient funds to pay his obligations and indebtedness other than receiver's certificates and liabilities for personal injury or damage and taxes, assessments and liens, all to be assumed by the purchaser under the provisions of Article VIII (a), (b), (c) and (d) of said decree.

Wherefore, it is Ordered, Adjudged and Decreed:

1. That the separate bids for the separate parcels Nos. 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, and 13 be rejected.

2. That the sale of parcels Nos. 1, 2, 3 4, 5, 6, 7, 8, 9, 10, 11, 12 and 13 as a whole to John S. Fleck for Four Million Six Hundred and Five Thousand Dollars ($4,605,000.00) be confirmed. Said F. H. Wilson, Special Master, is hereby authorized and directed to execute good and sufficient deeds, bills of sale, assignments and instruments of transfer to all of the properties, real and personal, tangible and intangible, described as Parcels Nos. 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12 and 13 in the decree of sale and in the notice of sale, to The Cleveland, Southwestern Railway & Light Company its successors and assigns.

Delivery of such deeds, bills of sale, assignments and instruments of transfer shall be upon payment by said The Cleveland, Southwestern Railway & Light Company of the following in cash:

(a) The sum of Thirty Thousand Two Hundred Eight and 95/100 Dollars ($30,208.95) hereinbefore found to be the costs and expenses of said sale other than the costs of court.

(b) Court costs.

(c) The balance of said purchase price in Receiver's Certificate or Bonds and Coupons in accordance with the provisions of Article VII of said decree of foreclosure.

The Special Master shall determine the amount applicable to each such bond and coupon and such purchaser shall pay in cash such amount upon all bonds and coupons not presented by him. Said Special Master shall make further report to this Court of the amount so found to be applicable to each such bond and coupon.

It is further ordered that the transfer of said properties be made as of March 1, 1924, and that an accounting be had between said John S. Fleek, or his nominees, and F. H. Wilson, the duly appointed Receiver in this cause, as of March 1, 1924, relative to the receipts, disbursements and adjustments to be made in reference to the said properties as of March 1, 1924.

The properties to be transferred as provided in said decree and in the said notice of sale, and the properties which the said Special Master shall transfer to the said The Cleveland, Southwestern Railway & Light Company, are more particularly described in the form of said deeds, instruments of transfer and conveyance as attached to the report of the Special Master filed herein, which deeds, instruments of transfer and conveyance are hereby approved.

It is further ordered that upon receipt of the said purchase price and upon the execution and delivery of the instruments of transfer aforesaid the said Receiver, F. H. Wilson, is hereby authorized and directed to surrender and give up possession of all of said properties aforesaid to The Cleveland, Southwestern Railway & Light Company thereof, and to surrender up to the said transferree or transferrees all books, records, abstracts, maps, surveys, evidences or muniments of title now in his possession, relating to the properties so transferred.

It is further ordered that the expenses of the Receiver F. H. Wilson, since March 1, in respect to the transfer of the properties as hereinbefore ordered, be paid from the revenues of the properties operated by him as Receiver and that upon such transfer said Receiver be and he is hereby authorized and directed to deliver the balance of the funds to said The Cleveland, Southwestern Railway and Light Company, together with an accounting since March 1, 1924.

In addition thereto said F. H. Wilson for his service as Special Master and as additional compensation to him for his services as Receiver in this cause, is allowed the sum of Ten Thousand Dollars ($10,000.00). Such sum should be paid to the extent that funds are available funds in the hands of the Receiver resulting from the operation of the road. The balance thereof should be taxed as costs of the court in this action.

It is further ordered that F. H. Wilson, Special Master as aforesaid, make within thirty days of the date of this decree, a further report of his proceedings.

D. C. Westenhaver,
District Judge.

April 7, 1924.

The United States of America, Northern District of Ohio, Eastern Division.

I, B. C. Miller, Clerk of the District Court of the United States within and for said District, do hereby certify that I have compared the within and foregoing transcript with the original Order of Confirmation entered upon the Journal of the proceedings of said Court in the therein entitled cause, at the term and on the day therein named, and do further certify that the same is a true, full and complete transcript and copy thereof. Witness my official signature, and the seal of said Court at Cleveland, in said District this 17th day of April, A. D. 1924, and the 148 year of the Independence of the United States of America.

B. C. Miller, Clerk

(Seal) By W. B. Salsgiver, Deputy Clerk.

Rec'd May 6, 1924, at 3:56 P. M.

Recorded May 14, 1924, Wm. G. Mitchell, Recorder.

Elyria, Ohio, Nov. 10, 1930.

This is to certify that this is a true and correct copy of Order of Confirmation as found Recorded in Deed Volume 198, page 621 of Lorain County Records.

Given under my hand and seal of office the day and year first above written.

(Signed) Wm. G. Mitchell, Recorder.

Wm. G. Mitchell, Recorder of Lorain County, O.

(Signed) By C. J. Phelps, Deputy.

(Seal)

PLAINTIFF'S EXHIBIT No. 27

O.K. as to form—H. C. L., E. F. B.

CERTIFIED COPY

No. 151003 DEED OF SPECIAL MASTER

General Electric Company vs. The Cleveland, Southwestern & Col. Ry. Co. Know all men by these Presents: That, whereas, in an action pending in the United States District Court for the Northern District of Ohio, Eastern Division, being cause in Equity No. 690, wherein General Electric Company is complainant and The Cleveland, Southwestern & Columbus Railway Company is defendant, F. H. Wilson was duly appointed Receiver of all of the properties of The Cleveland, Southwestern & Columbus Railway Company including the properties hereinafter described; and

Whereas, said cause came on for hearing upon the petition of the complainant, the intervening petition of The Guardian Savings & Trust Company, Trustee, and the answers and cross-petitions of the said defendants above mentioned and the answers of The Cleveland, Southwestern & Columbus Railway Company to said intervening petition and answers and cross-petitions, and upon the report of F. H. Wilson, duly appointed, qualified and acting Receiver of said The Cleveland, Southwestern & Columbus Railway Company and upon the claims and liens against the said Railway Company as appear from the books of said Railway Company and from the several Mortgages, Deeds of Trust, Car Trust Agreements, claims for laborers' services and material and general claims filed with the Receiver and on February 9, 1924, a decree in foreclosure was entered by the District Court aforesaid; and

Whereas, in said decree the Court found that the conditions of the said Mortgages had been broken and that all parties claiming liens or interest in the properties hereinafter described had been made parties defendant in said action, and F. H. Wilson was duly appointed Special Master to make sale of the properties; and

Whereas, pursuant to the terms of said decree of February 9, 1924, notice of said sale was duly published in the Cleveland Plain Dealer, a newspaper published in Cuyahoga County, Ohio, and of general circulation in the Counties of Huron, Lorain, Cuyahoga, Medina, Wayne, Ashland, Richland, Erie and Crawford, Ohio, on February 13th, 20th, and 27th and March 4th, 1924, being

once a week for four successive weeks prior to the date of said sale;

Whereas, on March 14, 1924, pursuant to the terms of said decree of February 9, 1924, and pursuant to the notice of sale published as aforesaid, the said F. H. Wilson, duly appointed and acting Special Master for the sale of said properties did, at ten o'clock A.M. on said date and at the office of The Cleveland, Southwestern & Columbus Railway Company, 133 Court Street, in the City of Elyria, Lorain County, Ohio, offer for sale all of the properties of said The Cleveland, Southwestern & Columbus Railway Company described in said decree and in said notice and at said sale the properties were offered first singly in separate parcels and then as a whole, and John S. Fleek, being the highest qualified bidder, offered the sum of Four Million Six Hundred and Five Thousand Dollars ($4,605,000) for all of said properties as a whole; and

Whereas, such proceedings were had that on April 7th, 1924, said cause came on for hearing upon the report of F. H. Wilson, Special Master aforesaid, and upon the motion of The Guardian Savings & Trust Company, Trustee intervening petitioner, for the approval of said report and the confirmation of said sale, and on said date said District Court aforesaid did approve said report and confirm said sale and order the Special Master aforesaid to make conveyance of the properties so sold to the purchaser or his nominee; and

Whereas, the said John S. Fleek did, in writing, request that the said properties be conveyed to The Cleveland, Southwestern Railway & Light Company and the Court in said order of confirmation ordered and directed F. H. Wilson, Special Master as aforesaid, to make conveyance of all the properties of said The Cleveland, Southwestern & Columbus Railway Company to The Cleveland Southwestern Railway & Light Company and its successors and assigns; and

Whereas, The Cleveland, Southwestern Railway & Light Company has made payment to the Special Master of the purchase price aforesaid;

Now, Therefore, I, F. H. Wilson, duly appointed Special Master as aforesaid, by virtue of the powers and authority conferred upon me by law and by the orders of the District Court aforesaid, for the consideration of Four Million Six Hundred and Five Thousand Dollars ($4,605,000) received to my full satisfaction of The Cleveland Southwestern Railway & Light Company, the grantee, do hereby give, grant, bargain, sell and con-

vey unto the said The Cleveland Southwestern Railway & Light Company and its successors and assigns all of the following described properties, to-wit:

Parcel No. IV. The railroad lines of said Company in the Counties of Huron, Lorain and Erie, Ohio, between the following points, to-wit:

(b) Beginning at the corner of Main and College Streets in the Village of Oberlin, thence westerly on West College Street in the Village of Oberlin, .50 of a mile; thence westerly on private right of way to the easterly Village line of Berlin Heights, 13 miles; thence on Main Street and South Street to the southerly limits of the Village of Berlin Heights, .50 of a mile; thence on private right of way to the easterly limits of the City of Norwalk 8.80 miles;

Parcel No. IX. Situate in the City of Norwalk, County of Huron and State of Ohio and described as follows:

1—All that part of the East half of Great Lot 95, in Section 4, Norwalk Township, bounded on the north by the right of way of The Wheeling and Lake Erie Railroad Company; on the west by the west line of the east half of said Lot No. 95; on the south by the north line of a right of way sixty-six feet wide, running parallel with said railroad right of way and 132 feet (measured at right angles) distant therefrom, and on the east by a line running parallel with said west line of said east one-half of Lot 95 and 278.04 feet easterly therefrom.

Also a right in common with C. H. Gallup and Lizzie Gallup, their heirs and assigns, to said sixty-six foot right of way, viz.: a strip of land sixty-six feet wide running from Woodlawn Avenue on the east to the west line of said east half of lot No. 95 on the west, the north boundary line of said strip of land being distant (measured at right angles) 132 feet from the south line of said Wheeling and Lake Erie Railroad Company's right of way and running parallel therewith.

2—Also a leasehold of four by ten rods off the west end of said sixty-six foot strip, for description of land and extent of title leased, reference is hereby made to lease record Vol. 2, pages 12 and 13, Huron County, Ohio. And also all the gas and electric system of the Company, all its plants, gas-works, power stations, machinery, engines, boilers, dynamos, electric machines, gas machines, meters, lamps and other appliances, and apparatus, poles, lines, wires, pipes, lamp-posts, pipe-lines, tubing, gauges, cocks, valves, meter-testers, stop-boxes, transformers, switchboards and all other appliances, ap-

paratus and appurtenances, whether the same be now owned or hereafter acquired all of which things are hereby declared to be appurtenances and fixtures of said plants.

Parcel No. X. The railroad lines of said Company in the Counties of Medina, Wayne, Ashland, and Richland, Ohio, between the following points, to-wit:

(f) Being inlot No. 2020 in Outlot No. 2 in what is known as Feisinger's Addition to the City of Norwalk, as shown in deed recorded under date of October 27, 1902, Vol. 62, Page 438 Huron County Ohio Records.

(g) Being a strip of land 33 feet in width in Inlot No. 1, Section No. 3 of Norwalk Township, in City of Norwalk, as shown in deed recorded under date of January 14, 1902, Vol. 61, Page 69, Huron County Ohio Records.

Parcel No. XII. Consisting of the light and power business of The Cleveland Southwestern & Columbus Railway Company as operated by that Company and F. H. Wilson, Receiver thereof.

A. Complete detail in connection therewith is shown by schedule as filed with the Clerk of the District Court of the United States for the Northern District of Ohio, Eastern Division. Such light and power business includes:

Birmingham Section;

Approximately 5 miles of primary l[illegible]es and appurtenances 2300 volt distribution supplying consumers in and about the Villages of Birmingham, Wakeman and Kipton, together with the joint use of substations and high tension lines.

Milan Section;

Approximately 1 mile of primary lines and appurtenances 2300 volt distribution, supplying consumers in and about the unincorporated Village of Milan, together with the joint use of substations and high tension lines.

Norwalk Section;

Approximately 16 miles of primary lines and appurtenances 2300 volt distribution, supplying consumers in and about the City of Norwalk, together with the joint use of substations and high tension lines.

Such property and each such parcel includes therewith all stations, power houses, car barns and equipment of all kinds used on each such parcel in connection with the railway transportation carried on thereover, and all franchises, rights, contracts, powers, easements, licenses, buildings, erections, super-structures, machine shops, tools, implements and fixtures in respect to each such parcel.

To have and to hold all of said properties unto the said grantee, its successors and assigns, forever. Subject, however, to the liens, claims, and obligations which, pursuant to the said decree of February 9, 1924, the said purchaser is obligated to assume, but, except as above stated, forever free and discharged of and from the lien of and trusts under the several mortgages and deeds of trust hereinabove set forth, and the bonds and coupons secured thereby, and forever free and discharged of and from any and all liens, claims and demands whatsoever, arising out of any of the orders of the District Court aforesaid, or of any action of the said Receiver appointed in said cause, and forever free and discharged of and from any and all liens, claims and demands whatsoever upon or against said real and personal property, railways, rights, franchises, and other properties aforesaid, in favor of any party or parties to said cause, or in favor of any person or persons, firm or firms, corporation or corporations, claiming by, through or under them or any of them, and including all right, title, estate, interest and equity of redemption of said The Cleveland, Southwestern & Columbus Railway Company, its predecessors in title and of the Receiver herein, and of all of them, and of all persons claiming or to claim thereunder, to the said real and personal property railways, rights, franchises and other properties aforesaid and every part and parcel thereof. This conveyance is made as of March 1st, 1924. This conveyance is made in nine (9) counterparts for the purpose of record in the several counties in which the above property is located, each one of which shall be deemed to be an original. In witness whereof, I hereunto set my hand at Cleveland, Ohio, this 30 day of April, A. D. 1924.

F. H. Wilson,
Special Master as aforesaid

In the presence of:
C. E. McKisson
L. M. Miller

State of Ohio, Cuyahoga County, ss.

Personally appeared before me, the undersigned a Notary Public in and for said County and State, the above named F. H. Wilson, Special Master, who acknowledged that as such Special Master he did sign and seal the foregoing instrument and that the same is his free act and deed. In Testimony Whereof, I have hereunto set my hand and official seal at Cleveland, Ohio, this 30 day of April, A. D. 1924.

C. J. Mayers, Notary Public (Seal)

Note: Stamps required by Federal Law have been attached to an executed copy of this deed recorded in Cuyahoga County, Ohio.
Rec'd May 6, 1924, at 3:57 P.M.
Recorded May 14, 1924. Wm. G. Mitchell, Recorder.

Elyra, Ohio, Nov. 10, 1930.

I hereby certify that the foregoing is a true and correct copy of Deed of Special Master No. 151003—General Electric Co. vs. The Cleveland, Southwestern & Columbus Ry. Co., recorded in Vol. 198, Page 623 Lorain County Records of Deeds.

Given under my hand and Seal of Office the day and year first above written.

(Signed) Wm. G. Mitchell
Recorder Lorain County, Ohio.
(Seal) By C. J. Phelps, Deputy

PLAINTIFF'S EXHIBIT No. 27½

O.K. as to form—H. C. L., E. F. B.

#151004—The Cleveland Southwestern & Columbus Rail Way Company to The Cleveland Southwestern Railway & Light Company.

Know all men by these Present; That The Cleveland, Southwestern & Columbus Railway Company, a Corporation incorporated under the laws of the State of Ohio, the Grantor, for divers good causes and considerations thereunto moving, and especially for the sum of Ten Dollars ($10.00) received to its full satisfaction of The Cleveland Southwestern Railway & Light Company the Grantee, have given, granted, remised, released and forever quitclaimed and do by these presents absolutely give, grant, remise, release and forever quitclaim unto the said Grantee, its successors and assigns, forever, all such right and title as it the said Grantor has or ought to have in and

to the following described railroad rights of way, real estate, property, real and personal, and appurtenances, to-wit:

Parcel No. IV. The railroad lines of said Company in the Counties of Huron, Lorain and Erie, Ohio, between the following points, to-wit:

(b) Beginning at the corner of Main and College Streets in the Village of Oberlin, thence westerly on West College Street in the Village of Oberlin, .50 of a mile; thence Westerly on private right of way to the easterly village line of Berlin Heights, 13 miles; thence on Main Street and South Street to the southerly limits of the Village of Berlin Heights, .50 of a mile; thence on private right of way to the easterly limits of the City of Norwalk, 8.80 miles.

Parcel No. IX. Situated in the City of Norwalk, County of Huron and State of Ohio, and described as follows: 1—All that part of the East half of Great Lot 95, in Section 4, Norwalk Township, bounded on the north by the right of way of The Wheeling and Lake Erie Railroad Company; on the west by the west line of the east half of said Lot No. 95; on the south by the north line of a right of way sixty-six feet wide, running parallel with said railroad right of way and 132 feet (measured at right angles) distant therefrom, and on the east by a line running parallel with said west line of said east one-half of Lot 95 and 278.04 feet easterly therefrom.

Also a right in common with C. H. Gallup and Lizzie Gallup, their heirs and assigns, to said sixty-six foot right of way, viz: a strip of land sixty-six feet wide running from Woodlawn Avenue on the east to the west line of said east half of Lot No. 95 on the west, the north boundary line of said strip of land being distant (measured at right angles) 132 feet from the south line of said Wheeling and Like Erie Railroad Company's right of way and running parallel therewith.

2. Also a leasehold of four by ten rods off the west end of said sixty-six foot strip for description of land and extent of title leased, reference is hereby made to lease record, Vol. 2, pages 12 and 13, Huron County, Ohio. And also all the gas and electric system of the Company, all its plants, gas-works, power stations, machinery, engines, boilers, dynamos, electric machines, gas machines, meters, lamps, and other appliances and apparatus, poles, lines, wires, pipes, lamp-posts, pipe-lines, tubing, gauges, cocks, valves, meter-boxes, stop-boxes, transformers, switchboards, and all other appliances, apparatus and appurtenances, whether the same be now owned or here-

after acquired, all of which things are hereby declared to be appurtenances and fixtures of said plats.

Parcel No. XI. The following described real estate:

(f) Being Inlot No. 2020 in Outlot No. 2 in what is known as Feisinger's Addition to the City of Norwalk, as shown in deed recorded under date of October 27, 1902, Vol. 62, page 438 Huron County, Ohio, Records.

(g) Being a strip of land 33 feet in width in Inlot No. 1, Section No. 3 of Norwalk Township in City of Norwalk, as shown in deed recorded under date of January 14, 1902, Vol. 61, page 69, Huron County, Ohio, Records.

Parcel No. XII. Consisting of the light and power business of The Cleveland, Southwestern & Columbus Railway Company as operated by that Company and F. H. Wilson, Receiver thereof.

A. Complete detail in connection therewith is shown by schedule as filed with the Clerk of the District Court of the United States, for the Northern District of Ohio, Eastern Division. Such light and power business includes.

Birmingham Section:

Approximately 5 miles of primary lines and appurtenances 2300 volt distribution, supplying consumers in and about the Villages of Birmingham, Wakeman and Kipton, together with the joint use of substations and high tension lines.

Milan Section:

Approximately 1 mile of primary lines and appurtenances 2300 volt distribution, supplying consumers in and about the unincorporated Village of Milan, together with the joint use of substations and high tension lines.

Norwalk Section;

Approximately 16 miles of primary lines and appurtenances 2300 volt distribution, supplying consumers in and about the City of Norwalk, together with the joint use of substations and high tension lines.

Such property and each such parcel includes therewith all stations, power houses, car barns and equipment of all kinds used on each such parcel in connection with the railway transportation carried on thereover, and all franchises, rights, contracts, powers, easements, licenses, buildings, erections, super-structures, machine shops, tools, implements and fixtures in respect to each such parcel.

To have and to hold the premises aforesaid with the appurtenances thereunto belonging to the said Grantee, its successors and assigns so that neither the said Grantor nor its successors or assigns, nor any other persons claiming title through or under it, shall or will hereafter

claim or demand any right or title to the premises or any part thereof, but they and every one of them shall by these presents be excluded and forever barred. This deed is given in pursuance of an order of the District Court for the Northern District of Ohio, Eastern Division, in Cause No. 690 in Equity, in which General Electric Company et al is complainant and The Cleveland, Southwestern & Columbus Railway Company et al is defendant and of the decree of foreclosure entered in said suit February 9, 1924.

In Witness Whereof said corporation sets its hand and corporate seal by F. T. Pomeroy, its President and J. O. Wilson, its Secretary, this 15 day of April, A. D. 1924.

The Cleveland Southwestern & Columbus
(Seal) Railway Company
By F. T. Pomeroy, President
J. O. Wilson, Secretary.

Signed in the presence of:
B. R. Allen
G. Maxwell

The State of Ohio, Cuyahoga County, ss.

Before me, a Notary Public in and for said County personally appeared the above named The Cleveland, Southwestern & Columbus Railway Company by F. T. Pomeroy, its President and J. O. Wilson, its Secretary, who acknowledge that they did sign the foregoing instrument and that the same is the free act and deed of said corporation and the free act and deed of each of them personally and as such officers. In Testimony Whereof I have hereunto set my hand and official seal at Cleveland, Ohio, this 15 day of April 1924.

(Seal) C. J. Mayers, Notary Public.

Received May 6, 1924, at 3:58 P. M.
No transfer necessary May 6, 1924, M. H. Welty, Auditor.
Recorded May 16, 1924, Wm. G. Mitchell, Recorder.

Elyria, Ohio, Nov. 10, 1930.

This is to certify that the foregoing is a true and correct copy of Deed as found recorded in Deed Vol. 198 Page 630 of Lorain County Records.

Given under my hand and seal of office the day and year first above written.

(Signed) Wm. G. Mitchell
Wm. G. Mitchell, Recorder of
Lorain County, Ohio.
(Seal) By C. J. Phelps, Deputy.

PLAINTIFF'S EXHIBIT No. 28

OHIO ELECTRIC POWER COMPANY
To
THE SEABOARD NATIONAL BANK OF THE CITY OF NEW YORK
As Trustee

MORTGAGE AND DEED OF TRUST
Securing First Mortgage Gold Bonds
Dated July 1, 1924

Indenture, bearing date the first day of July, 1924, but actually executed the 2nd day of September, 1924, and made and entered into by and between Ohio Electric Power Company, a corporation of the State of Ohio, hereinafter sometimes called the Company, party of the first part, and The Seaboard National Bank of the City of New York, a corporation organized under The National Banking Laws of the United States of America and duly qualified to accept and execute the trust hereby created, hereinafter sometimes called the Trustee, as Trustee, party of the second part.

Whereas, the Company has deemed it necessary to borrow money for its corporate purposes and to issue its bonds therefor, and to mortgage and pledge its property, hereinafter described, to secure the payment of the same, said bonds to be issued in one or more series maturing at such dates and bearing interest at such rates respectively, and having such descriptive title, including therein the words "First Mortgage Gold Bond," as the Board of Directors of the Company, prior to the issue thereof may determine and as may be approved by the Trustee, such bonds to be coupon bonds, registerable or not registerable as to principal as the Board of Directors of the Company prior to the issue thereof may determine, with interest coupons attached with the fac-simile signature of the present or any future Treasurer of the Company thereon, and/or registered bonds without coupons, issuable as in this Indenture hereinafter provided; to be signed in its corporate name by its President or a Vice-President. impressed with its corporate seal, attested by its Secretary or an Assistant Secretary, and authenticated by the certificate of the Trustee; which said coupon bonds, coupons, registered bonds without coupons and Trustee's certificates are to be substantially in the forms following, respectively,—the proper amount, series and numbers, dates of issue, dates of maturity and

rates of interest to be inserted therein, and appropriate insertions, omissions and variations to be made in such bonds and coupons to express the terms and conditions upon which the same are to be redeemable before maturity (if so redeemable), to express the terms and conditions of exchangeability or interchangeability of the bonds to express the privilege of registration as to principal of such coupon bonds as may be so registerable as to principal, to express the covenants of the Company in regard to payment of taxes and in other respects to express the terms and conditions on which such bonds are issued as required or permitted by this Indenture:

* * * * *

Whereas the issuance of the bonds referred to in Section 1 of Article III of this Indenture and the lien and pledge hereby created have been duly authorized by an order duly entered by the Ohio Public Utilities Commission, and

Whereas, all things necessary to make said bonds, when duly authenticated by the Trustee, and issued by the Company, valid, binding and legal obligations of the Company, and to make this Indenture a valid, binding and legal instrument for the security thereof, have been done and performed and the issue of said bonds, as in this Indenture provided, has been in all respects duly authorized:

Now, therefore, this Indenture Witnesseth: Ohio Electric Power Company, in consideration of the premises and of one dollar to it duly paid by the Trustee at or before the ensealing and delivery of these presents, the receipt whereof is hereby acknowledged, and in order to secure the payment both of the principal and interest of the bonds aforesaid, according to their tenor and effect, hath granted, bargained, sold, released, conveyed, assigned, transferred, pledged, set over and confirmed, and by these presents doth grant, bargain, sell, release, convey, assign, transfer, pledge, set over and confirm, unto The Seaboard National Bank of The City of New York, as Trustee, and to its successor or successors in said trust, and to it and its and their assigns forever, all the following described properties—that is to say:

I

The following real estate, viz.:

(Real estate descriptions are omitted. See Physical Exhibit No. 28, page 15.)

II

The following franchises:

(Descriptions of certain franchises are omitted. See Physical Exhibit No. 28, page 19.)

III

The electric generating plants of the Company, situate in the City of Ravenna, County of Portage, State of Ohio, and in the Village of Oberlin, County of Lorraine, State of Ohio, and the electric distributing systems of the Company situate in the cities, towns or communities and vicinity adjacent thereto known as Ravenna, Mantua and Oberlin, Ohio; also the gas plants and gas distributing systems of the Company in the City of Ravenna and in the Village of Oberlin; and any electric generating plants, electric distributing systems and distribution lines, and any gas plants and gas distributing systems and gas distributing mains hereafter constructed or acquired by the Company, and any additions to or extensions of any such present or future plants and systems, together with the buildings, erections, structures, transmission lines, sub-stations, engines, boilers, containers, pumps, turbines, pipes, mains, meters, machinery, conduits, insulators, dynamos, motors, lamps, wires, poles, appliances, instruments, apparatus, appurtenances, facilities and other property used or provided for use in the construction, maintenance, repair and operation thereof, both that now owned and that which may hereafter be acquired by the Company, and together also with all of the rights, privileges, rights of way, franchises, licenses, grants, liberties, immunities, ordinances, permits and easements of the Company, however conferred or acquired, whether now owned or hereafter acquired, with respect to the construction, maintenance, repair and operation of said plants, systems and lines, and any additions thereto and extensions thereof.

IV

The existing electric transmission lines of the Company and any such transmission lines hereafter constructed or acquired by the Company and any additions to or extensions of any such present or future transmission lines, together with the poles, wires, towers, crossarms, insulators, supports, buildings, erections, structures, transformers, stations, sub-stations, switchboard

equipment, telephone equipment, machinery, tools, apparatus, appliances, facilities and other property used or provided for use in the construction, maintenance, repair and operation thereof, both that now owned and that which may be hereafter acquired by the Company, and together also with all the rights, privileges, rights of way, franchises, licenses, easements, grants, liberties, immunities, permits, and ordinances of the Company with respect to the construction, maintenance, repair and operation of such existing and future transmission lines and each of them, and any additions thereto or extensions thereof, such existing transmission lines which the Company now owns being generally described as follows:

A 22,000 volt three phase transmission line from Ravenna to Brady's Lake;

A 13,200 volt three phase transmission line from Ravenna to Mantua;

Including all such transmission lines, whether or not herein particularly enumerated, without in any wise limiting or impairing by the enumeration of the same the scope and intent of the foregoing or of any general description contained in this Indenture.

V

All of the incomes, revenues, contributions, receipts, gas, electric, and other rents, returns, contracts (particularly including any and all contracts with any municipalities, individuals or corporations with respect to the supplying to such municipalities, individuals or corporations of gas and/or electricity for heat, light, power or any other purposes), leases, claims, accounts, demands, choses in action, books of account, bonds, shares of stock and contract rights of all kinds belonging to the Company and all stores, repair parts, materials and supplies except as hereinafter provided and subject to the rights reserved to the Company by other provisions of this Indenture.

All other property, real, personal and mixed (except merchandise held or to be held by the Company for the purpose of sale to its patrons and others), now owned or hereafter acquired by the Company and wheresoever situated, including (without in any wise limiting or impairing by the enumeration of the same the scope and intent of the foregoing or of any general description contained in this Indenture) all lands, rights of way, roads, all steam and power houses, buildings and other structures, and all offices, buildings and the con-

tents thereof; all machinery, engines, boilers, dynamos, regulators, meters, transformers, generators, motors, electrical and mechanical appliances, conduits, cables, gas, water, steam, heat or other pipes, pole and transmission lines, wires, cables, bridges, tracks, tools, implements, apparatus, supplies, merchandise, furniture, chattels, all municipal or other franchises; all lines for the transmission and distribution of electric current, steam heat, hot water, or gas for any purpose including poles, wires, cables, pipes, conduits and all apparatus for use in connection therewith; all real estate, lands, leases, leaseholds, heat or power contracts, street lighting contracts, easements, licenses, permits, franchises, privileges, rights of way and other rights in or relating to real estate or the occupancy of lands and the tolls, rents, revenues, issues, earnings, income and profits from any and all property of the Company.

Together with all and singular the tenements, hereditaments and appurtenances belonging or in any wise appertaining to the aforesaid property or any part thereof, with the reversion and reversions, remainder and remainders, tolls, rents, revenues, issues, income, product and profits thereof, and all the estate, right, title and interest and claim whatsoever, at law as well as in equity, which the Company now has or may hereafter acquire in and to the aforesaid property and franchises and every part and parcel thereof.

It is hereby agreed by the Company that all the property, rights and franchises acquired by the Company after the date hereof (other than merchandise held or to be held by the Company for the purpose of sale to its patrons and others) shall be as fully embraced within the lien hereof as if such property were now owned by the Company and were specifically described herein and conveyed hereby.

To have and to hold all said properties, real, personal and mixed, mortgaged, pledged or conveyed by the Company as aforesaid, or intended so to be, unto the Trustee and its successors and assigns forever; subject however to the right which the Company hereby reserves, until the happening of a completed default as set forth in Section 1 of Article XII hereof, to retain in its possession all cash, stocks, obligations, bonds and other securities owned by the Company, not expressly required by the provisions hereof to be deposited with the Trustee, and also bills and accounts receivable, damage claims and other claims for money, materials and supplies, and to sell, exchange, pledge, hypothecate or

otherwise dispose of the same free from the lien hereof, with the right and power from time to time to secure its notes or other obligations by the pledge, or deposit, or otherwise, of or with any or all of the said property so retained in its possession without let or hindrance on the part of the Trustee, or of any of the bondholders, and no person in any dealings with the Company in respect of any such property shall be charged with any notice or knowledge of any default under this Indenture while the Company is in possession of such property; and nothing herein contained shall be deemed or construed to require the deposit with the Trustee of any of such property, except such as is specifically required to be deposited with the Trustee by some express provision hereof.

In trust nevertheless, for the equal pro rata benefit and security of all and every of the bonds issued and to be issued hereunder in accordance with the provisions of this Indenture without preference, priority or distinction as to lien of any over the other by reason of priority in time of the issue, negotiation or maturity thereof; subject, however, to the provisions of this Indenture and of any supplemental indenture relating to any sinking fund for the benefit of the bonds of any particular series; it being intended that the lien and security of all of said bonds of all series issued or to be issued hereunder shall take effect from the execution and delivery of this Indenture, and that the lien and security of this Indenture shall take effect from the date of execution and delivery thereof as though all of the said bonds of all series were actually authenticated and delivered upon such date.

Provided, however, and these presents are upon the condition that if the Company, its successors or assigns, shall pay or cause to be paid unto the holders of said bonds the principal and interest to become due in respect thereof, at the times and in the manner stipulated therein and herein, and shall keep, perform and observe all and singular the covenants and promises in said bonds and in this Indenture expressed as to be kept, performed and observed by or on the part of the Company, then this Indenture and the estate and rights hereby granted, shall cease, determine and be void, otherwise to be and remain in full force and effect.

It is hereby covenanted, declared and agreed, by the Company, that all such bonds and coupons are to be issued, authenticated and delivered, and that all property subject or become subject hereto is to be held subject to the further covenants, conditions, uses and trusts

hereinafter set forth, and the Company, for itself and its successors and assigns, doth hereby covenant and agree to and with the Trustee and its successor or successors in said trust, for the benefit of those who shall hold said bonds and interest coupons, or any of them, as follows:

ARTICLE I

Definitions

Section 1. The terms specified in the next succeeding eight sections hereof, numbered from 2 to 9, both inclusive, shall, for all purposes of this Indenture (unless the context otherwise requires), have the meanings in such sections specified.

Section 2. The term "the Company" shall mean the party of the first part hereto, Ohio Electric Power Company, and shall also include its successors and assigns. The term "the Trustee" shall mean the party of the second part hereto, The Seaboard National Bank of The City of New York, and shall also include its successors and assigns. The terms "the lien hereof" and "the lien of this Indenture" shall mean the lien created by these presents (including the after-acquired property clauses hereof) and the lien created by any concurrent or subsequent conveyance to the Trustee hereunder (whether made by the Company or any other individual, copartnership or other corporation) effectively constituting any property a part of the security held by the Trustee upon the terms and trusts and subject to the conditions specified in this Indenture.

Section 3. The term "resolution" shall mean a resolution or a copy thereof, certified by the Secretary or an Assistant Secretary of the Company to have been duly adopted by the Board of Directors of the Company. The term "engineer" shall mean an individual or a copartnership or a corporation engaged in an engineering business. The term "engineer's certificate" shall mean a certificate signed and verified by the President or a Vice-President of the Company and by an engineer (who may be an employee of the Company) appointed by the Board of Directors of the Company and approved by the Trustee. The term "independent engineer's certificate" shall mean a certificate signed and verified by an engineer appointed either by the Trustee or by the Bankers and approved by the Board of Directors of the Company. The term "opinion of counsel" shall mean

an opinion in writing signed by legal counsel (who may be of counsel of the Company) appointed by the Board of Directors of the Company and approved by the Trustee. The term "Treasurer's certificate" shall mean a certificate signed and verified by the President or a Vice-President and Treasurer or an Assistant Treasurer of the Company.

Section 4. The term "permanent additions" shall mean lines, plants, properties, permanent improvements, extensions or additions, acquired or constructed, (a) by Oberlin Gas and Electric Company or Ravenna Gas and Electric Light Company subsequent to July 1, 1924 and prior to the conveyance of their respective properties to the Company, or (b) by the Company subsequent to the conveyances mentioned, in the preceding clause (a), and subjected to the lien of this Indenture, to be used in the business of producing, manufacturing, generating, supplying, selling or otherwise acquiring or disposing of (1) electricity, artificial gas, water, ice or steam, or light, heat or power, by means of electricity, gas, water or steam, and (2) with but not without the consent of the Bankers, transportation, telephone, telegraph or natural gas service by any means. Lines, plants, properties, permanent improvements, extensions or additions in process of construction or erection insofar as actually constructed or erected and paid for and, subjected to the lien of this Indenture, shall be deemed permanent additions. The term permanent additions shall not include (except as provided in subdivision (2) of Section 6 of Article V) any shares of stock, bonds or other securities or franchises, contracts or choses in action nor shall such term include any property acquired or constructed by the Company for the purpose of keeping or maintaining the mortgaged property in good and business-like working order and condition or merely to replace old, inadequate or worn-out property; provided, however, that whenever old, inadequate or worn-out property is replaced by property costing more than the reproductive value less depreciation of such old, inadequate or worn-out property as of July 1, 1924, or at time of acquisition if acquired thereafter, then to the extent of such excess, and to such extent only, such property so acquired to replace the old, inadequate or worn-out property shall be deemed permanent additions.

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Section 7. The term "Bankers" shall mean A. C. Allyn and Company, a corporation of the State of Delaware, and its successor or successors in business, so

long as the said corporation or its successor or successors shall continue in the business in which said corporation is now engaged, or until the said corporation or its successor or successors, by an instrument in writing filed with the Trustee, shall surrender its or their powers and duties under this Indenture. In either such event, all of the functions of the Bankers under this Indenture may be exercised by (1) the Trustee, or (2) by some person or persons (including a corporation or corporations) jointly appointed for that purpose by the Company and the Trustee. In respect of the exercise or failure to exercise any function of the Bankers hereunder, neither the Bankers nor the Trustee nor any such appointee shall under any circumstances incur any liability whatever, it being expressly understood that the Trustee shall be under no obligation in any event to exercise any power conferred hereby on the Bankers and that the exercise of any such power by the Trustee in any one event shall create no obligation on its part to exercise any such power in any other or further event.

Section 8. The term "cost" as applied to permanent additions, (as defined in Section 4 of this Article) shall mean and include the amount paid or expended in the acquisition, construction or erection thereof plus the amount of any obligations payable in money delivered by the Company or assumed or agreed to be paid by the Company in connection with the purchase, acquisition, construction or erection of the same, or subject to which the same is or may be so purchased, acquired, constructed or erected; provided that any such obligations once included in the cost of any permanent additions made the basis for the issuance of bonds or withdrawal of cash under any provision of this Indenture, may not thereafter be included in the cost of any other permanent additions. In the event that the Company shall at any time acquire any permanent additions in consideration, in whole or in part, of its own capital stock, the fair market value of such stock may, at the option of the Company, be included in the cost of such permanent additions, provided that the fair market value of any such stock shall be ascertained as hereinafter in this Section provided, within six months from the delivery thereof in consideration of or in exchange for such permanent additions. The fair market value of any such stock shall be ascertained as follows: The Trustee shall appoint one or more persons to be employed for that purpose by the Company but who shall not otherwise be in the employ of the Company, to determine the fair market value

of such stock on the date or dates of its delivery as hereinabove provided, which determination shall be evidenced by a certificate signed by such person or persons so appointed and filed with the Trustee, stating the fair market value of such stock in the opinion of such person or persons. Such certificate shall be conclusive evidence of the fair market value of such stock for all purposes of this Indenture.

Section 9. The term "outstanding" used with reference to the bonds issued under this Indenture, shall mean as of any particular time all bonds which have been theretofore authenticated and delivered hereunder and which have not been cancelled by the Trustee or surrendered to the Trustee for cancellation, except bonds which have been called for redemption and to the credit whereof sums have been placed as provided in Article X hereof, and except that in determining the bonds outstanding there shall not be included bonds at any time previously authenticated and delivered hereunder in lieu of and exchange and substitution for which any new bond has been authenticated and delivered, as provided in Section 15 of Article II of this Indenture.

ARTICLE II

Form and Execution Bonds

Section 1. This Indenture creates a continuing lien to secure the full and final payment of the principal and interest of all bonds which may from time to time be made, issued, authenticated and delivered hereunder. The amount of bonds which may be so made, issued, authenticated and delivered hereunder, is not limited except that no further bonds shall be issued at any time if the total amount of bonds to be outstanding, after such issue, would in any event exceed the then limit of indebtedness, if any, of the Company permitted by law.

At the option of the Company, the bonds issued hereunder may be issued in one or more series. All bonds issued hereunder of any one series shall be identical in form and language except for necessary or proper variations between coupon bonds and registered bonds without coupons or bonds of different denominations. Each series shall have such distinctive designation as the Board of Directors of the Company may select for such series, and each bond issued hereunder shall bear upon the face thereof the designation so selected for the series to which it belongs. All the bonds to be issued under

this Indenture, together with the coupons appertaining thereto, shall be expressed in the English language. The form of the bonds of each series, issued hereunder, other than the Series A mentioned in Section 2 of this Article, shall be established at the time of the creation of the Series by resolution of the Board of Directors of the Company, provided, however, that, subject to the exceptions contained in the fifteen next succeeding Sections of this Article numbered from 2 to 16, both inclusive, the text of the coupon bonds and of the registered bonds without coupons to be issued under this Indenture, and of the coupons appertaining to the coupon bonds, and of the certificate of the Trustee upon all bonds, shall be respectively substantially of the tenor and purport of the general forms of bonds above recited; and provided further that the bonds of any series both coupon and registered without coupons and the coupons to be attached to the coupon bonds may contain such other terms, provisions, specifications and descriptive words and may have such letters, numbers or other marks of identification or designation and such legends or endorsements printed, lithographed or engraved thereon not inconsistent with the provisions hereof as may be necessary or proper to comply with the rules of any brokers' board or exchange or with the order of any governmental body having jurisdiction in the premises, or to conform to usage with respect thereto or as may be desired by the Board of Directors of the Company. Before any bonds of any series other than the Series A hereinafter provided for in Section 2 of this Article shall be certified or delivered by the Trustee a certified copy of the resolution or resolutions creating the Series shall be deliverd by the Company to the Trustee. The Company shall also deliver to the Trustee a supplemental indenture in form to be recorded containing the particulars of the new series of bonds as above set forth and containing appropriate provisions giving to such bonds the protection and security of this mortgage.

Section 2. There shall be a series of bonds unlimited in amount designated 6½% Series A (herein referred to as "Series A"), which shall bear the descriptive title First Mortgage Gold Bond and the form thereof shall contain suitable provisions with respect to the matters hereinafter in this Section 2 specified. The coupon bonds of Series A and the coupons appertaining thereto shall be respectively substantially of the tenor and purport above recited. Bonds of said Series A shall mature July 1, 1944, and shall be issued as coupon bonds

in denominations of One Thousand Dollars ($1,000), Five Hundred Dollars ($500) and One Hundred Dollars ($100) and, at the option of the Company, as registered bonds without coupons in denominations of One Thousand Dollars ($1,000), and in any multiple or multiples of One Thousand Dollars ($1,000) that the Company may determine to issue.

* * * * *

At the option of the Company, any coupon bonds of Series A in aggregate principal amount of $1,000, or any multiple thereof, upon surrender thereof with all unmatured coupons thereto appertaining at the office of the Trustee in the Borough of Manhattan, City of New York, may be exchanged for a like aggregate principal amount of registered bonds without coupons, of the same series. At the option of the Company, any registered bonds without coupons of Series A, upon surrender thereof at said office of the Trustee together with a written instrument of transfer in form approved by the Company duly executed by the registered holder, may be made exchangeable for a like aggregate principal amount of coupon bonds in denomination of $1,000 of the same series, with all unmatured coupons attached, or for a like principal amount of registered bonds without coupons of the same series of other authorized denominations.

* * * * *

Section 10. Subject to the provisions of Section 2 of this Article with respect to the bonds of Series A, and of Section 8 of this Article the bonds of any series, at the option of the Company, may contain provisions permitting the exchange or interchange of bonds in any or all of the particulars hereinafter in this Section 10 specified, to wit: the exchange or interchange of coupon bonds for or with registered bonds without coupons; the exchange or interchange of registered bonds without coupons for or with coupon bonds; the exchange or interchange of coupon bonds for or with coupon bonds of other denomination or denominations; the exchange or interchange of registered bonds without coupons for or with registered bonds without coupons of other denomination or denominations; and the exchange of bonds of one series for bonds of another series of the same or later maturity. Such privileges of exchange or interchange may in any case be made subject to any conditions, limitations or restrictions which the Company shall cause to be specified in the bonds so made exchangeable or interchangeable and the privilege of exchange or interchange may in any case be conferred upon the

holders of bonds of one or more denominations and withheld from the holders of bonds of other denominations of the same series.

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ARTICLE III

Initial Issue of Bonds

Section 1. Bonds for the aggregate principal amount of Seven Hundred and Fifty Thousand Dollars ($750,000), being bonds of the Series A hereinbefore described, shall forthwith be executed by the Company and delivered to the Trustee and shall be authenticated by the Trustee, and delivered (whether before or after the filing or recording hereof), from time to time, in accordance with the order or orders of the Company, evidenced by a writing or writings signed by its President or a Vice-President and its Treasurer or an Assistant Treasurer.

ARTICLE IV

Provisions Applicable Generally to Issuance of All Additional Bonds

Section 1. No bonds, except as provided in Section 4 of Article V, in addition to those provided for in Article III hereof shall be authenticated and delivered hereunder by the Trustee unless the Trustee shall have received previous to or at the time of the authentication and delivery thereof;

(1) A written request or application dated not more than thirty days preceding the date of the authentication and delivery of bonds then applied for, executed in the name of the Company by the President or a Vice-President of the Company stating the principal amount, denomination and form (whether coupon or registered) of the bonds requested to be certified and delivered, the series thereof, and the person or persons to whom or upon whose order such bonds are to be delivered;

(2) A resolution as defined in Section 3 of Article I hereof authorizing such request or application;

(3) An opinion of counsel as defined in Section 3 of Article I, hereof, that no consent of any governmental authorities is requisite to the legal issue of the bonds the authentication and delivery of which have been applied for, or that the issue of such bonds has been duly authorized by the Company and by any and all govern-

mental authorities, the consent of which is requisite to the legal issue of such bonds, specifying any officially authenticated certificates or other documents by which such consent is or may be evidenced, and that all mortgage, registration and/or other like taxes in respect of the bonds applied for have been paid, or that provision for the payment thereof has been made or that no such payment is required by law; and

(4) The officially authenticated certificates or other documents, if any, specified in the opinion of counsel provided for in subdivision (3) above including evidence satisfactory to the Trustee of the payment or provision for payment of any taxes therein referred to.

(5) If the bonds, the authentication and delivery of which is applied for, are not a part of any series then existing the resolution or resolutions (as defined in Section 3 of Article I hereof) and the supplemental indenture creating the series of which such bonds are a part.

Section 3. No bonds in addition to those provided for in Article III hereof shall be authenticated and delivered hereunder by the Trustee at any time when the Trustee has knowledge that the Company is in default under any of the provisions of this Indenture.

ARTICLE V

Issuance of Bonds Upon the Basis of Permanent Additions

Section 1. Subject to the provisions of Sections 1 and 2 of Article IV bonds in addition to those provided for in any other section hereof may from time to time be executed by the Company and delivered to the Trustee and shall be authenticated and delivered by the Trustee upon the basis of the acquisition or construction of permanent additions as defined in Section 4 of Article I hereof. Such additional bonds, however, shall be authenticated and delivered only in accordance with and subject to the conditions, provisions and limitations set forth in the next succeeding seven sections of this Article numbered from 2 to 8, both inclusive.

Section 2. No bonds shall be authenticated and delivered at any time under the provisions of this Article V (other than those provided for in Section 4 of this Article) upon the basis of the acquisition or construction of (a) any property not included within the definition of "permanent additions" contained in Section 4 of Article I, or (b) any property which has not been or

is not simultaneously with the issuance of bonds applied for subjected to the lien hereof, or (c) any property which has previously been made the basis for the authentication and delivery of bonds or withdrawal of cash (unless such cash shall have been replaced under the provisions of Section 12 of Article XI hereof) under any provision of this Indenture, or (d) any property which has previously been made the basis for the withdrawal by the company from the trustee under any prior lien mortgage of any cash representing either insurance money received or the proceeds of property released from the lien of such prior lien mortgage subsequent to the time at which the property subject to such prior lien mortgage shall have been made the basis for the issuance of bonds or the withdrawal of cash hereunder, unless such cash so withdrawn from a trustee under a prior lien mortgage shall have been deposited with the Trustee hereunder, (e) any property which has previously been made the basis for the release of property under the provisions of Article XI hereof, or (f) any property with respect to which the Company shall have certified that it elects not to have any bonds authenticated hereunder upon the basis thereof, or (g) any substituted property acquired by the Company in the exercise by it of any right which it may have to apply the proceeds of property theretofore subject to the lien hereof or of any prior lien mortgage sold or taken by eminent domain, to the acquisition of such substituted property, without depositing such proceeds with the Trustee hereunder or with the trustee under any prior lien mortgage, or (h) any property used by the Company in lieu of the deposit of cash with the Trustee hereunder, or the trustee under any prior lien mortgage in the exercise of any right which the Company may have under any such mortgage to subject property to the lien thereof in lieu of the deposit of moneys otherwise required to be deposited with any such trustee in any fund, derived from insurance moneys or the release of property from the lien of any such mortgage; provided that any permanent additions as defined in Section 4 of Article I, hereof, included within the terms of clauses (e), (g) or (h) of this Section, acquired in exchange for or with the proceeds (including insurance money) of property not previously made the basis for the issuance of bonds hereunder, shall not be excluded by the provisions of this Section as a basis for the issuance of bonds.

Section 3. No bonds shall be authenticated and delivered under the provisions of this Article V (other than

those provided for in Section 4 of this Article) upon the basis of the acquisition or construction of any permanent additions until the cost of such permanent additions and the fair value thereof shall have been certified to the Trustee as hereinafter in Section 6 of this Article provided, and the Trustee shall not authenticate and deliver, under the provisions of this Article V (except as provided in Section 7 of this Article), bonds in principal amount exceeding 80% of the cost (which may include the principal amount of any prior liens required to be deducted from such 80% in accordance with the provisions of the next succeeding Section hereof) or the fair value, whichever is less (certified as aforesaid) of the permanent additions forming the basis of such authentication and delivery.

Section 4. In all cases in which it shall appear from the certificates hereinafter in Section 6 of this Article provided for, that permanent additions proposed to be made the basis for the authentication and delivery of bonds under the provisions of this Article V are subject in whole or in part to prior liens (as defined in Section 5 of Article I hereof), the principal amount of such prior liens shall be deducted from the amount of bonds which might otherwise be authenticated pursuant to the provisions of Section 3 of this Article, unless such certificates shall also show that such deduction has been made in respect of other permanent additions subject to the same prior liens theretofore made the basis of the authentication and delivery of bonds under this Article V, or the withdrawal of cash under any of the provisions of this Indenture, provided, however, that if at any time after the amount of any prior lien shall have been deducted, in accordance with the provisions of this Section, from the amount of bonds which might otherwise be authenticated and delivered hereunder, the Company shall either

(a) deposit with the Trustee any prior lien bond or prior lien bonds secured by such prior lien, to be held and dealt with by the Trustee in the manner and subject to the conditions and provisions set forth in Article IX hereof, or

(b) file with the Trustee a Treasurer's certificate (as defined in Section 3 of Article I) to the effect that such prior lien has been paid or reduced or ascertained by judicial determination or otherwise to be in whole or in part invalid, and specifying the amount of payment or reduction or the extent of the invalidity, as the case

may be, accompanied by a concurring opinion of counsel (as defined in Section 3 of Article I),
then, and in either such case, the Company shall be entitled to the authentication and delivery of further bonds to a principal amount equivalent to the principal amount of the prior lien bond or bonds so deposited with the Trustee, or (as the case may be) equivalent to the amount by which the principal amount of such prior lien shall be certified to have been paid off or reduced or ascertained to be invalid as aforesaid and the Trustee shall authenticate and deliver such bonds to or upon the order of the Company, anything herein contained to the contrary notwithstanding, provided (1) that the Company shall have duly delivered the notice required by Section 6 of Article IX of this Indenture and (2) that the Company shall have complied with the requirements of subdivisions (3) and (4) of Section 1 of Article IV, as to all bonds authenticated and delivered under this Section.

Section 5. No bonds shall be authenticated and delivered under this Article V (other than those provided for in Section 4 of this Article and except as otherwise provided in Section 7 of this Article) unless as shown by a net earnings certificate (as defined in Section 6 of Article I) the earnings applicable to bond interest for a period of twelve consecutive calendar months within the fifteen calendar months immediately preceding the date of any application for authentication and delivery of bonds shall have been in the aggregate at least equivalent to twice the actual interest requirements for a like period upon (a) all bonds outstanding hereunder on the date of such application, (b) the bonds applied for, and (c) all outstanding prior lien bonds on the date of such application.

Section 6. No application by the Company to the Trustee for the authentication and delivery of bonds under this Article V (other than those provided for in Section 4 of this Article) shall be granted by the Trustee, until the Trustee shall have received:

(1) The documents provided for in Section 1 of Article IV.

(2) An engineer's certificate (as defined in Section 3 of Article I) describing the permanent additions made the basis of the application in reasonable detail, stating that they are permanent additions, as defined in Section 4 of Article I, that they are desirable for use in the profitable conduct of the Company's business, and that they do not consist in whole or in part of properties

which under the provisions of Section 2 of this Article are not permitted to be made the basis of the authentication and delivery of bonds; and stating separately the cost and (except as to permanent additions of the character described in subdivision (3) of this Section) the then fair value of such permanent additions; and specifying the nature and extent of any prior liens (as defined in Section 5 of Article 1) existing upon any of the permanent additions and the amount thereof, and whether or not other permanent additions subject to the same prior liens have theretofore been made the basis of the authentication and delivery of bonds under this Article V, or the withdrawal of cash under any of the provisions of this Indenture, and stating what part, if any, of such permanent additions consists of property which has been used or operated by others than the Company in the public utility business or has not been constructed by or for the Company. Such certificate shall include and shall state that it includes all permanent additions, subject then and at the time of the acquisition thereof by the Company, to a lien which is or may become a prior lien, and which have not previously been made the basis for the issuance of bonds or the withdrawal of cash hereunder, and which have been constructed or acquired to some date specified in such certificate which date shall not be more than four months prior to the date of the application which such certificate accompanies. If any permanent additions included in any certificate provided for in this subdivision (2) of this Section 6 have been used or operated by others than the Company in the public utility business, the cost and/or fair value thereof upon the basis of which bonds may be authenticated under this Article V may include the cost and/or fair value of any rights and intangible property simultaneously acquired with the same, for which no separate or distinct consideration shall have been paid or apportioned.

(3) In case any permanent additions are shown by the engineer's certificate provided for in subdivision (2) above to consist of property which has been used or operated by others than the Company in the public utility business or which has not been constructed by or for the Company, a further and independent engineer's certificate (as defined in Section 3 of Article I) describing such property in reasonable detail, and stating the then fair value thereof for the purposes of the Company, and further containing a brief statement of the considera-

tions governing the signer's determination of the fair value thereof.

(4) A net earnings certificate (as defined in Section 6 or Article I), specifying the earnings applicable to bond interest for a period of twelve consecutive calendar months within the fifteen calendar months immediately preceding the date of the application for authentication and delivery of bonds and stating the aggregate principal amount of the outstanding bonds mentioned in subdivisions (a), (b) and (c) of Section 5 of this Article V.

(5) An opinion of counsel, as defined in Section 3 of Article I, specifying the instruments of conveyance, assignment and transfer necessary to vest in the Trustee, to hold as part of the mortgaged and pledged property hereunder, all the right title and interest of the Company in and to the permanent additions made the basis of the application, or stating that no such instruments are necessary for such purpose, and also stating the signers' opinion to the effect (a) that this Indenture is or upon the delivery of the instruments of conveyance, assignment or transfer mentioned in said opinion, will be a lien on the permanent additions (other than paving, grading and other improvements to public highways) forming the basis of such application, subject to no lien, charge or incumbrance thereon or affecting the title thereto, except taxes for the then current year and taxes and assessments not yet due, and prior liens as defined in Section 5 of Article I; (b) that the Company has corporate authority and all necessary permission from governmental authorities to own and, except as to properties for which the Company has no valid franchise, to operate the permanent additions in respect of which the application is made; (c) that the nature, extent and amount of prior liens, if any, mentioned in the accompanying engineer's certificate, are correctly stated.

(6) The instruments of conveyance, assignment and transfer, if any, specified in the opinion of counsel provided for in subdivision (5) above.

Section 7. At the time of making any application for the authentication and delivery of bonds upon the basis of permanent additions, as provided in this Article the Company may elect to limit the aggregate principal amount of bonds to be authenticated and delivered by the Trustee upon the basis of the permanent additions specified in the certificates accompanying such application to 75% of the cost or fair value thereof, whichever is less, instead of 80% thereof, as hereinbefore provided, and in that event, the earnings applicable to bond

interest computed in the manner and for the period specified in Section 5 of this Article need be in the aggregate only at least equivalent to one and three-quarter times the actual interest requirements for a like period upon the bonds mentioned in clauses (a), (b) and (c) of said Section 5 of this Article; and all certificates and other documents accompanying such application may contain such variations, omissions and insertions from the certificates and other documents provided for in Section 6 of this Article as may be appropriate to the conditions of the issuance of such bonds, in accordance with the provisions of this Section.

Section 8. In case at any time there shall be outstanding any indebtedness which is secured by a lien, prior to the lien of this Indenture, upon permanent additions, the Company may deposit with the Trustee, to be held, until used or applied as hereinafter provided, as a part of the mortgaged property, or with such other banking institution and in such other manner as shall be satisfactory to the Trustee, a sum of money sufficient (1) to pay the principal of said indebtedness and the interest thereon to its maturity, or (2) to effect the redemption of such indebtedness before maturity, if the same is subject to redemption, with interest to such redemption date. Upon any such deposit being made, said indebtedness shall, for all purposes of this Indenture except the application of said deposit as herein provided, be deemed to have been paid and shall not be deemed to be outstanding, provided, that in case of a deposit to effect a redemption a sufficient call for such redemption, or provision satisfactory to the Trustee for making such call, shall first be made. Any such money so deposited shall on the written request of the Company, be applied from time to time to the payment of the principal and interest or to the redemption of such indebtedness, or paid over to the Company proportionately as such indebtedness shall be acquired by the Company and be deposited with the Trustee as a part of the mortgaged property.

ARTICLE VI

Issuance of Bonds Upon Retirement of Bonds Previously Outstanding Hereunder

Section 1. The Company may from time to time issue and the Trustee shall authenticate and deliver, subject to the provisions of Sections 1 and 2 of Article IV, bonds hereby secured in addition to those provided for

in any other Section hereof, in an aggregate principal amount not exceeding the aggregate principal amount of any bonds previously issued hereunder which shall have been retired, provided that (a) no bond shall be issued in respect of any such retired bond more than one year prior to the regular maturity (by lapse of time and not by call for redemption) of such retired bond unless the bond so issued bears no greater rate of interest than such retired bond and (b) no bond shall be issued in respect of any such retired bond which shall have been retired (1) out of any sinking fund, maintenance and improvement fund, or other similar fund applicable to its retirement if the provisions establishing such fund prohibit such issuance, or (2) out of insurance moneys or the proceeds of released property or (3) out of cash deposited pursuant to the provisions of Article VII hereof. Any bond previously issued under this Indenture shall be deemed to have been retired if it shall have been paid or redeemed or surrendered to the Trustee and cancelled (unless such surrender shall have been made in exchange for another bond or bonds of the same series issued hereunder and evidencing the same indebtedness) or if the necessary money to effect its payment or redemption shall have been deposited for that purpose with the Trustee hereunder, and in the case of redemption if it shall have been called or provision satisfactory to the Trustee shall have been made for its call for payment on the redemption date.

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ARTICLE VIII

Particular Covenants of the Company

The Company hereby covenants as follows:

Section 1. That it is lawfully possessed of all the aforesaid mortgaged and pledged property; that it will maintain and preserve the lien of this Indenture so long as any of the bonds issued hereunder are outstanding; and that it has good right and lawful authority to mortgage and pledge the said mortgaged and pledged property, as provided in and by this Indenture; and that the same are free and clear of all liens and incumbrances except current taxes and except as otherwise provided herein.

* * * * *

Section 6. The Company covenants that the business of the Company will be continuously carried on and con-

ducted in an efficient manner; that all property, plants, appliances and equipment of the Company useful in the carrying on of its business will be maintained in thorough repair, working order and condition, and, if worn out or injured, will be replaced by other property, suitable to the business of the Company, and of at least equal value; that it will make adequate provision for renewals and replacements of its property by setting up on its books and maintaining an adequate reserve for such renewals and replacements; and that none of the rights, franchises or privileges of the Company, whether now owned or hereafter acquired, will be allowed to lapse or be forfeited so long as the same shall be necessary for the carrying on of the business of the Company; that it will at all times maintain its corporate existence and right to carry on business in the several States in which its property and plants, or any part thereof, may be located, and will use reasonable efforts to obtain, from time to time, all necessary renewals and extensions thereof, and, subject to the provisions hereof, will diligently maintain, preserve and renew all rights, powers, privileges and franchises owned by it and necessary for the carrying on of the business of the Company; that it will at all times use all reasonable diligence to provide service adequate to meet the reasonable requirements of the communities in which it may be operating; that it will at no time commit or suffer to be committed, any waste upon the mortgaged property, or do, or permit to be done, about, in or upon the mortgaged property anything that may in any wise tend to impair the value thereof, or to weaken, diminish or impair the security furnished by this Indenture, and that it will fully and in due time comply with all laws and ordinances applicable to the Company or the mortgaged property.

Section 7. That if it shall fail to perform any of the covenants contatined in Sections 4, 5 and/or 6 of this Article the Trustee may make advances to perform the same in its behalf, but shall be under no obligations so to do; and all sums so advanced shall be at once repayable by the Company, and shall bear interest at six per centum (6%) per annum until paid, and shall be secured hereby, having the benefit of the lien hereby created in priority to the indebtedness evidenced by the bonds and coupons issued hereunder, but no such advance shall be deemed to relieve the Company from any default hereunder.

Section 8. That it will cause this Indenture and all indentures and instruments supplemental hereto to be

kept, recorded and filed in such manner and in such places as may be required by law in order fully to preserve and protect the security of the bondholders and all rights of the Trustee.

Section 9. That it will execute and deliver such further instruments and do such further acts as may be necessary or proper to carry out more effectually the purposes of this Indenture, and to make subject to the lien hereof any property hereafter acquired and intended to be covered hereby, and to transfer to any new trustee or trustees the estate, powers, instruments or funds held in trust hereunder.

* * * * *

Section 15. That it is duly authorized under the laws of the State of Ohio, and under all other applicable provisions of law to create and issue said bonds and to execute this Indenture covering the mortgaged and pledged property assigned and conveyed hereunder, and that all corporate action on its part for the creation and issue of said bonds and the execution of this Indenture has been duly and effectually taken, and that said bonds when issued in the hands of the holders thereof are and will be valid and enforcible obligations of the Company, and that this Indenture is and always will be a valid mortgage to secure the payment of said bonds.

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ARTICLE IX

Concerning Pledged Securities Deposited with the Trustee

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ARTICLE X

Redemption of Bonds

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Section 5. All bonds issued hereunder paid, retired or redeemed under any of the provisions of this Indenture shall forthwith be cancelled, and the Trustee shall thereupon deliver the bonds so cancelled to the Company.

ARTICLE XI

Possession, Use and Release of Mortgaged Property

Section 1. While not in default in the payment of principal or interest on any bond then outstanding hereunder or in respect of any of the covenants, agree-

ments or conditions in this Indenture contained, the Company shall be suffered and permitted to possess, use and enjoy the mortgaged and pledged property (except money and securities which are expressly required to be deposited with the Trustee), and to receive and use the rents, issues, income, product and profits thereof, with power, in the ordinary course of business, freely and without let or hindrance on the part of the Trustee or of the bondholders, to use and consume materials and supplies, and, except as herein otherwise expressly provided to the contrary, to exercise any and all rights under or in relation to choses in action and contracts.

Section 2. While the Company is not in default as aforesaid, it may at any time, without any release or consent by the Trustee, or accountability thereto for any consideration received by the Company,

* * * * *

(3) surrender or assent to the modification of any franchise or governmental consent or permit under which it may be operating, provided that, in the event of any such surrender or modification, the Company shall still have, under some other franchise or governmental consent, permit or right or under the modified franchise or governmental consent, or under a new franchise, license, governmental consent or permit, received in exchange for the surrendered franchise or governmental consent or otherwise (subject to the lien of this Indenture and free from any liens prior thereto, except taxes for the then current year and prior liens as defined in Section 5 of Article I hereof and the lien of some other underlying mortgage), authority, in the opinion of counsel, to conduct the same or an extended business in the same or substantially the same or an extended territory for the same or substantially the same or an extended or unlimited period of time or until the maturity date of the last maturing series of bonds at the time outstanding hereunder.

* * * * *

ARTICLE XII

Remedies of Trustee and Bondholders Upon Default

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Section 4. In the event of default of the Company in the performance of any of the covenants or conditions of this Indenture, the Trustee shall have the right and power to take appropriate judicial proceedings for the

enforcement of its rights and the rights of the bondholders hereunder. In case of a completed default hereunder, the Trustee may either after entry, or without entry, proceed by suit or suits at law or in equity to enforce payment of the bonds then outstanding hereunder and to foreclose this mortgage and to sell the property subject to the lien of this Indenture under the judgment or decree of a court of competent jurisdiction; and it shall be obligatory upon the Trustee to take action, either by such proceedings or by the exercise of its powers with respect to entry or sale, as it may determine, upon being requested so to do by the holders of twenty per centum (20%) in principal amount of the bonds then outstanding hereunder affected by such default and upon being indemnified as hereinafter provided.

No remedy by the terms of this Indenture conferred upon or reserved to the Trustee (or to the bondholders), is intended to be exclusive of any other remedy, but each and every such remedy shall be cumulative and shall be in addition to any other remedy given hereunder or now or hereafter existing at law or in equity or by statute.

No delay or omission to exercise any right or power accruing upon any default, shall impair any such right or power or shall be construed to be a waiver of any such default or acquiescence therein; and every such right and power may be exercised from time to time and as often as may be deemed expedient.

* * * * *

Section 14. All rights of action in favor of the Trustee arising under this Indenture, in respect of the bonds or coupons or otherwise may be enforced by the Trustee without the possession of any of the bonds or coupons or the production thereof on any trial or other proceedings relative thereto and any such suit or proceeding instituted by the Trustee shall be brought in its name as Trustee and any recovery of judgment shall be for the equal benefit of the owners and registered holders of the bonds and coupons.

Section 15. No holder of any bond or coupon shall have any right to institute any suit, action or proceeding in equity or at law for the foreclosure of this Indenture or for the execution of any trust hereof or for the appointment of a receiver or any other remedy hereunder, unless such holder shall have previously given to the Trustee written notice of such default and of the continuance thereof as hereinbefore provided nor unless also the holders of twenty per centum (20%) in prin-

cipal amount of the bonds then outstanding hereunder (or such other amount of bonds as is herein in certain instances expressly provided) shall have made written request to the Trustee and shall have afforded it reasonable opportunity to proceed to exercise the powers hereinbefore granted or to institute such action, suit or proceeding in its own name; nor unless they shall have offered to the Trustee adequate security and indemnity against the costs, expenses and liabilities to be incurred therein or thereby; and such notification, request and offer of indemnity are hereby declared in every case at the option of the Trustee to be conditions precedent to the execution of the powers and trusts of this Indenture, and to any action or cause of action for foreclosure or for the appointment of a receiver or for any other remedy hereunder; it being understood and intended that no one or more holders of the bonds or coupons shall have any right in any manner whatsoever to affect, disturb or prejudice the lien of this Indenture by his or their action or to enforce any right hereunder except in the manner herein provided, and that all proceedings at law or in equity shall be instituted, had and maintained in the manner herein provided and for the equal benefit of all holders of outstanding bonds and coupons.

Nothing in this Section or elsewhere in this Indenture shall affect or impair the obligation of the Company which is unconditional and absolute to pay the principal of the bonds at their respective maturities as therein stated or upon due call for redemption as therein or herein provided and the interest thereon to such maturity to the respective holders thereof and of the coupons attached thereto, nor affect or impair the right of action which is absolute and unconditional of such holders to enforce such payment.

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ARTICLE XIII

Evidence of Rights of Bondholders and Ownership of Bonds

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ARTICLE XIV

Immunity of Subscribers to the Capital Stock, Stockholders, Office-Holders and Directors

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ARTICLE XV

Effect of Merger, Consolidation, Etc.

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ARTICLE XVI

Concerning the Trustee

Section 1. The Trustee accepts the trust hereby created but only upon the terms and conditions set forth in this Article.

Section 2. The recitals of fact herein and in the bonds issued hereunder contained, shall be taken as statements of the Company and shall not be construed as made by the Trustee. The Trustee makes no representations as to the value of any of the property subject to the lien of this Indenture or any part thereof, or as to the title of the Company thereto, or as to the security afforded thereby and hereby, or as to the validity of this Indenture or of the bonds or coupons issued hereunder, and the Trustee shall incur no responsibility in respect of such matters.

* * * * *

Section 8. Upon any application for the authentication and delivery of bonds hereunder or for the payment of any moneys held by the Trustee under any provision of this Indenture, or for the execution of any release, or upon any other application to the Trustee hereunder, the resolutions, certificates, statements, opinions, reports and orders required by any of the provisions of this Indenture to be delivered to the Trustee as a condition of the granting of such application may be received by the Trustee as conclusive evidence of any fact or matter therein set forth and shall be full warrant, authority and protection to the Trustee in acting on the faith thereof, not only in respect of the facts but also in respect of the opinions therein set forth; and before granting any such application the Trustee shall not be bound to make any further investigation into the matters stated in any such resolution, certificate, statement, opinion, report or order, but if requested in writing so to do by the holders of not less than twenty per centum (20%) in principal amount of the outstanding bonds and only if furnished with adequate security and indemnity against the costs and expense of such examination, the Trustee shall make such further investigation as to it may seem proper; but it may in its discretion make any such independent in-

quiry or investigation as it may see fit. If the Trustee shall determine or shall be requested, as aforesaid, to make such further inquiry, it shall be entitled to examine the books, records and premises of the Company, either itself or by agent or attorney; and unless satisfied, with or without such examination, of the truth and accuracy of the matters stated in such resolutions, certificate, statement, opinion, report or order, it shall be under no obligation to grant the application. If after such examination or other inquiry the Trustee shall determine to grant the application it shall not be liable for any action taken in good faith. The reasonable expense of every such examination shall be paid by the Company, or if paid by the Trustee shall be repaid by the Company, upon demand, with interest at the rate of six per centum (6%) per annum, and until such repayment shall be secured by a lien on the mortgaged and pledged property and the proceeds thereof prior to the lien of the bonds and coupons issued hereunder.

* * * * *

Section 17. Any successor trustee appointed hereunder shall execute, acknowledge and deliver to its predecessor trustee, and also to the Company, an instrument accepting such appointment hereunder, and thereupon such successor trustee, without any further act, deed or conveyance shall become fully vested with all the estates, properties, rights, powers, trusts, duties and obligations of its predecessor in trust hereunder, with like effect as if originally named as Trustee herein; but the trustee ceasing to act, shall, nevertheless, on the written request of the Company, or of the successor trustee, but at the cost and expense of the Company, execute, acknowledge and deliver such instruments of conveyance and further assurance and do such other things as may reasonably be required for more fully and certainly vesting and confirming in such successor trustee all the right, title and interest of the Trustee, to which he or it succeeds, and to the mortgaged and pledged property and such rights, powers, trusts, duties and obligations, and the Trustee ceasing to act shall also, upon like request, pay over, assign and deliver to the successor trustee any money or other property subject to the lien of this mortgage, including the pledged securities, which may then be in his or its possession. Should any deed, conveyance or instrument in writing from the Company be required by the new trustee for more fully and certainly vesting in and confirming to such new trustee such estates, rights, powers and duties,

any and all such deeds, conveyances and instruments in writing shall, on request, be executed, acknowledged and delivered by the Company.

Section 18. Any company or bank into which the Trustee or any successor to it in the trusts created by this Indenture may be merged, or converted, or with which it or any successor to it may be consolidated, or any company or bank resulting from any merger, conversion or consolidation to which the Trustee or any successor to it shall be a party, shall be successor trustee under this Indenture without the execution or filing of any paper or any further act on the part of either of the parties hereto, anything herein contained to the contrary notwithstanding, provided such successor trustee shall be a corporation organized under the laws of the State of New York, or a national banking association, and shall have an office for the transaction of its business in the Borough of Manhattan, City of New York. In case any of the bonds issuable under this Indenture shall have been authenticated, but not delivered, any such successor trustee may adopt the certificate of authentication of The Seaboard National Bank of The City of New York, or of any successor to it, as trustee hereunder, and deliver the same so authenticated; and in case any of the bonds issuable hereunder shall not have been authenticated, any successor trustee may authenticate such bonds either in the name of any predecessor trustee or in the name of such successor trustee, and in all such cases such authentication shall have the full force and effect which anywhere in said bonds or in this Indenture it is provided that the authentication of the Trustee shall have; provided, however, that the right to authenticate bonds in the name of The Seaboard National Bank of The City of New York shall extend only to its immediate successor by conversion, merger or consolidation.

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ARTICLE XVII

Discharge of Mortgage

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ARTICLE XVIII

Meetings of Bondholders

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ARTICLE XIX

Miscellaneous

Section 3. The Company and the Trustee may from time to time and at any time if by the Company deemed necessary or advisable, enter into such indentures or agreements supplemental hereto as shall not be inconsistent with the terms and provisions hereof (which supplemental indentures or agreements shall thereafter form a part hereof) for one or more of the following purposes:

(a) To correct the description of any property hereby affected or pledged or intended so to be; to assign, convey, mortgage, pledge, transfer and set over unto the Trustee, subject to such liens or other incumbrances as shall be therein specifically described, additional property or properties of the Company for the equal and proportionate benefit and security of the holders of all bonds at any time issued and outstanding under this Indenture, subject, however, to any provision of this Indenture or of any indenture or agreement supplemental hereto, relating to a sinking fund for the benefit of the bonds of any particular series.

(b) To provide the terms and conditions of the issue of the bonds of any series not expressly provided for in this Indenture.

(c) To provide the terms and conditions of the exchange of bonds of one series for bonds of another or other series.

(d) To provide that the principal of the bonds of any particular series may be converted at the option of the holders into the capital stock of the Company, or into any other security whatsoever and the terms and conditions of such conversion.

(e) To evidence the succession of another corporation to the Company or successive successors and the assumption by such successor corporation of the covenants and obligations of the Company under this Indenture.

(f) To comply with the provisions or perform the covenants contained in Section 9 of Article VIII, Section 9 of Article XVIII, or Section 2 of this Article hereof.

(g) For any other purpose not inconsistent with the terms of this Indenture or for the purpose of curing any ambiguity or defective provisions contained herein, or in any supplemental indenture.

Section 4. The terms and conditions contained in any supplemental indenture or agreement as to any provisions authorized to be contained herein under paragraphs (b), (c) and (d) of the next preceding Section may, if deemed necessary or advisable by the Trustee, be set forth in reasonable and customary manner in the bonds of the particular series to which said supplemental indenture or agreement shall apply. In case of the execution and delivery of any supplemental indenture or agreement, express reference may be made thereto in the text of the bonds of any series issued hereunder, if deemed necessary or advisable by the Trustee.

Section 5. Whenever in this Indenture either of the parties hereto is named or referred to, this shall be deemed to include the successors or assigns of such party, and all the covenants and agreements in this Indenture contained by or on behalf of the Company or by or on behalf of the Trustee shall bind and enure to the benefit of the respective successors and assigns of such parties whether so expressed or not.

The descriptive headings of the several Articles of this mortgage were formulated, used and inserted in this mortgage for convenience only and shall not be deemed to affect the meaning or construction of any of the provisions hereof.

Section 6. This Indenture shall be simultaneously executed in several counterparts, and all said counterparts executed and delivered, each as an original, shall constitute but one and the same instrument.

The amount which at the time of the delivery of this Indenture has been advanced or accrued thereon, or is at that time secured hereby, does not exceed the sum of $750,000 with interest thereon from July 1, 1924, at the rate of 6½% per annum.

In witness whereof, Ohio Electric Power Company, party hereto of the first part, has caused its corporate name and seal to be hereunto affixed, and this instrument to be signed by its President or a Vice-President, and attested by its Secretary or an Assistant Secretary for and in its behalf, and The Seaboard National Bank of The City of New York, party hereto of the second part, in token of its acceptance of the trust hereby created, has caused its corporate name and seal to be hereunto affixed, and this instrument to be signed by its President or a Vice-President and attested by its Cashier

or an Assistant Cashier, all in the City of New York, as of the day and year first above written.

Ohio Electric Power Company,
By Victor Emanuel,
Vice-President.

(Seal)

Attest:
Floyd E. Harper,
Assistant Secretary.

In the presence of:
W. R. Porter,
W. L. O'Conor.

The Seaboard National Bank of the City of New York,
By C. D. Makepeace,
Vice-President.

(Seal)

Attest:
F. R. Parkin,
Assistant Cashier.

In the presence of:
E. V. Nelson,
C. L. Clune.

State of New York, County of New York, ss.:

On this second day of September, 1924, before the subscriber, a Commissioner of the State of Ohio in and for the State of New York, personally came Victor Emanuel, who is the Vice-President of the said Ohio Electric Power Company, and acknowledged that the name of said Company was subscribed to the foregoing Indenture by himself as the Vice-President thereof; and that the seal affixed thereto is the seal of said Company, and that said name was subscribed and said seal attached to the foregoing Indenture by the direction and authority of the said Company, and that the foregoing Indenture is the act and deed of the Ohio Electric Power Company for the uses and purposes therein mentioned.

Witness my hand and official seal this 2nd day of September, 1924.

Ella F. Braman
Commissioner for the State of Ohio, in and for the State of New York, resident in the City of New York.

(Seal) Commission expires May 16, 1925.

State of New York, County of New York, ss.:

On this second day of September, 1924, before the subscriber, a Commissioner of the State of Ohio in and for the State of New York, personally came C. D. Makepeace, who is the Vice-President of the said The Sea-

board National Bank of the City of New York, and acknowledged that the name of said Company was subscribed to the foregoing Indenture by himself as the Vice-President thereof and that the seal affixed thereto is the seal of said Company, and that said name was subscribed and said seal attached to the foregoing Indenture by the direction and authority of said Company, and that the foregoing Indenture is the act and deed of the said The Seaboard National Bank of the City of New York, for the uses and purposes therein mentioned.

Witness my hand and official seal this 2nd day of September, 1924.

Ella F. Braman
Commissioner for the State of Ohio, in and for the State of New York, resident in the City of New York.
(Seal) Commission expires May 16, 1925.

Original Mortgage endorsed as follows:
Received For Record
Sep 5-1924
At 8:35 o'clock A.M.
Recorded 192
(in Lorrain County) Mtg. Records
Volume 162 Page
Wm. G. Mitchell,
Recorder.
Received For Record
September 6, 1924
at 11:45 o'clock A.M.
Recorded 19
In Portage County Records
Of
Vol. 281 Page
A. B. Lozier,
Recorder.

I hereby certify that the above and foregoing is a true and correct copy of the Mortgage and Deed of Trust given by Ohio Electric Power Company to The Seaboard National Bank of the City of New York as Trustee as the same appears on the records of this office, being recorded in Mortgage Record Volume 95, pages 41-74 inclusive.

In Testimony Whereof, I have hereunto set my hand and official seal at Norwalk, Huron County, Ohio, this 7th day of November, A. D. 1930.

Will H. Darling,
(Seal) County Recorder.
By Maudie Eaton, Deputy.

PLAINTIFF'S EXHIBIT No. 29
(Filed for Record June 19, 1925)

OHIO ELECTRIC POWER COMPANY
to
THE SEABOARD NATIONAL BANK OF THE CITY OF NEW YORK
As Trustee

SUPPLEMENTAL MORTGAGE
to
MORTGAGE AND DEED OF TRUST

Securing First Mortgage Gold Bonds

Dated May 25, 1925

Indenture, bearing date the 25th day of May, 1925, but actually executed on the 29th day of May, 1925, made and entered into by and between Ohio Electric Power Company, a corporation of the State of Ohio (hereinafter sometimes called the Company), party of the first part, and The Seaboard National Bank of the City of New York, a corporation organized under the National Banking Laws of the United States of America (hereinafter sometimes called the Trustee), as Trustee, party of the second part.

Whereas, the Company heretofore duly made, executed and delivered to the Trustee its Mortgage and Deed of Trust bearing date the 1st day of July, 1924, but actually executed on the 2nd day of September, 1924 (hereinafter referred to as the Original Mortgage), securing an issue of First Mortgage Gold Bonds of the Company unlimited in amount and conveying and transferring to the Trustee the property and rights therein mentioned and described, which Original Mortgage was duly recorded in the office of the Recorder of Deeds of Lorain County, Ohio, on September 5, 1924, in Mortgage Records, Volume 162, page , and in the office of the Recorder of Deeds of Portage County, Ohio, on September 6, 1924, in Portage County Records, Volume 281, page , and which said Original Mortgage is intended to be filed for record in the office of the Recorder of Deeds in Erie County, Ohio, and in the office of the Recorder of Deeds in Huron County, Ohio, contemporaneously with the filing therein of this Indenture, and which said Original Mortgage was duly made, executed and delivered for the purpose of securing the payment of series of bonds of the Company as therein provided, and

Whereas, the Company covenanted in and by said Original Mortgage to execute and deliver such further instruments and do such further acts as might be necessary or proper to carry out more effectually the purposes of the said Original Mortgage, and to make subject to the lien thereof any property thereafter acquired and intended to be covered thereby, and

Whereas, the Company since the execution of said Original Mortgage has acquired certain additional property hereinafter described or mentioned, and

Whereas, the execution and delivery of this Supplemental Mortgage has been duly authorized by the Board of Directors of the Company at a meeting thereof duly convened and held, and all acts and things prescribed by law to make this Indenture a valid and lawful Supplemental Mortgage to the Original Mortgage have been done and performed, all in accordance with the Charter or Certificate of Incorporation and Regulations and By-Laws of the Company and all Laws and Statutes relating thereto.

Now, Therefore, This Indenture Witnesseth:

That the Company in consideration of the premises and of One ($1) Dollar to it duly paid by the Trustee at or before the ensealing and delivery of these presents, the receipt whereof is hereby acknowledged, and in order to further secure the payment of the principal and interest of the bonds issued under and secured by said Original Mortgage and this Supplemental Mortgage, according to their tenor and effect, and the performance and observance of all and singular the covenants and promises in all said bonds and in said Original Mortgage and in this Supplemental Mortgage expressed, and in order more effectually to carry out the purposes of said Original Mortgage and this Supplemental Mortgage, hath granted, bargained, sold, released, conveyed, assigned, transferred, pledged, set over and confirmed, and by these presents doth grant, bargain, sell, release, convey, assign, transfer, pledge, set over and confirm unto The Seaboard National Bank of the City of New York, as Trustee, and to its successor or successors in said trust, and to it and its, and their assigns, forever, all property and assets, real, personal or mixed, tangible or intangible, of whatsoever kind or nature and wheresoever situate, conveyed, transferred or assigned to the Company by Victor Emanuel, by two certain quitclaim deeds, each dated May 22, 1925, and by deed of assignment, dated May 22, 1925, and by bill of sale dated May 22, 1925, and by assignment dated May 22, 1925 (excepting, however, any merchan-

dise so acquired from said Victor Emanuel and held or to be held by the Company for the purpose of sale to its patrons and others) together with all lands and the buildings and improvements thereon and the appurtenances thereto, all easements and all other rights in or relating to real estate or the occupancy of private or publicly owned lands, and all power plants and other plants, machinery, engines, boilers, dynamos, electric machines, regulators, meters, transformers, generators, motors, electric and mechanical appliances, cables, wires, poles, crossarms, insulators, transmission lines, distribution systems, mains, pipes, standpipes, conduits, water systems, tools, stores, materials and supplies, furniture and fixtures, and all leaseholds, licenses, permits, privileges, and all contracts and choses in action and all books of account, and the tolls, rents, revenues, issues, earnings, income and profits therefrom so conveyed, transferred or assigned to the Company by the above mentioned Victor Emanuel, as aforesaid, and including, without in any wise limiting or impairing by the enumeration of the same the scope or intent of the foregoing or of any general description contained in this Supplemental Mortgage, the following:

(1) A parcel of real property located in the City of Norwalk, County of Huron, and State of Ohio, together with the buildings and improvements thereon erected, formerly belonging to the Cleveland Southwestern Railway and Light Company, and described in a Deed dated December 31, 1924, from said Cleveland Southwestern Railway and Light Company to Victor Emanuel as follows:

1. All that part of the east half of Great Lot No. 95 in Section 4 Norwalk Township, bounded on the north by the right of way of The Wheeling & Lake Erie Railroad Company, on the West by the west line of the east half of said lot No. 95; on the South by the north line of a right of way sixty-six feet wide running parallel with said Railroad right of way and 132 feet (measured at right angles) distant therefrom, and on the east by a line running parallel with said west line of said east one-half of lot 95 and 278.04 feet easterly therefrom. Also a right in common with C. H. Gallup and Lizzie F. Gallup, their heirs and assigns to said sixty six foot right of way, viz: A strip of land sixty six feet wide running from Woodlawn Avenue on the east to the west line of said east half of Lot No. 95 on the west, the north boundary line of said strip of land being distant (measured at right angles) 132 feet from the south line of said

Wheeling & Lake Erie Railroad Company's right of way and running parallel therewith.

2. Also a leasehold of four by ten rods off the West end of said sixty six foot strip, for description of land and extent of title leased, reference is hereby made to lease record Vol. 2, pages 12 and 13, Huron County, Ohio.

(2) A parcel of real property near the Village of Birmingham, Florence Township, Erie County, Ohio, formerly belonging to the Cleveland Southwestern Railway and Light Company, and described in a Deed dated December 31, 1924, from said Cleveland Southwestern Railway and Light Company to Victor Emanuel, as follows:

Situated in the Township of Florence, County of Erie and State of Ohio, and known as being a part of Township lot No. 94 and bounded and described as follows: Beginning at a point in the East line of land deeded by E. Henry to the Cleveland, Elyria and Western Railway Company for a substation, which point is 558 feet South of the Southeast corner of Public School Ground; thence South 8° 50′ east one hundred forty-seven (147) feet to said Henry's East line; thence South 35′ East along said East line fourteen (14) feet to the northerly line of land deeded by E. Henry to the Cleveland, Elyria and Western Railway Company for right of way; thence North-westerly along said right of way one hundred thirty-eight feet to the East line of substation ground; thence along the East line of substation ground North 12′ West thirty-one (31) feet to the point of beginning.

(3) A certain transmission line and distribution systems and personal property formerly belonging to the Cleveland Southwestern Railway and Light Company described in a bill of sale dated the 31st day of December, 1924, from said Cleveland Southwestern Railway and Light Company, to Victor Emanuel as follows:

(a) That certain three phase high tension line, poles and equipment therefor between the power house and substation in the City of Norwalk of the Grantor and the point of intersection of the Elyria-Oberlin Road, and East Lorain Street in the Village of Oberlin extended, east of Oberlin.

(b) That certain three phase high tension line, poles and equipment therefor, extending from the high tension line hereinbefore described in Paragraph (a) hereof, to the Oberlin Water Works in the Village of Oberlin, together also with all substation equipment in connection therewith of the Grantor in the City of Ober-

lin, said equipment including all articles of personal property and all appurtenances in and to said high tension line mentioned in this paragraph.

(c) All primary and secondary light lines of the Grantor located on the poles referred to in Paragraphs (a) and (b) hereof and/or used in connection with the power and light business of the Grantor, including (1) approximately 3.9 miles of line between the city limits of the City of Norwalk and Stop 35 upon the Electric Interurban Railroad of the Grantor and (2) Line from point of connection with said high tension line described in Paragraph (a) hereof to and in the Village of Kipton, Ohio, and including all distribution power and light systems, transformers, meters, services and the equipment and appurtenances thereto, or used in connection therewith of the Grantor, within said Village of Kipton.

(d) All distribution power and light systems, transformers, meters, services and the equipment and appurtenances thereto or in connection therewith of the Grantor within the corporate limits of the City of Norwalk, Ohio, including approximately 8.3 miles of lines and poles of the Grantor, approximately 5.2 miles of lines on poles of others than the Grantor and approximately 4.3 miles of lines on poles owned jointly by the Grantor and others, together with all right, title and interest of the Grantor in and to the poles so occupied jointly.

(e) All equipment, material, appurtenances of the Grantor in and to the Power House and Substation of the Grantor in the City of Norwalk, Ohio, including boilers, engines, frequency changer, transformers, oil switches, metering equipment, rotary converter.

Also all switching equipment, transformers, appurtenances and other equipment in connection with said three phase high tension line mentioned in Paragraph (a) hereof and located in the Railroad Station of the Grantor in the Village of Birmingham, Ohio, and used in connection with the commercial power and light business of the Grantor.

(f) That certain three phase high tension wire, cross arms, pins and insullators between the point of intersection of the Elyria-Oberlin Road and East Lorain Street of the Village of Oberlin extended, east of Oberlin, referred to in Paragraph (a) and the point on the right of way of the Electric Interurban Railway of the Grantor where the Polk High Tension Line of the Grantor so-called, intersects said railway right of way and the pole line in connection therewith at Stop 100 on said right of way, more commonly known as Wask's Cheese Factory.

(g) That certain three phase high tension wire, pins and insullators located on the north side of poles of the Grantor between said Stop 100 referred to in Paragraph (f) hereof and the west property line of the car shops of the Grantor in the City of Elyria, Ohio.

(4) A certain right of way formerly belonging to the Cleveland Southwestern Railway and Light Company and described in a deed of assignment dated the 31st day of December, 1924, from said Cleveland Southwestern Railway and Light Company, to Victor Emanuel, as follows:

That certain right of way upon which to erect and maintain poles for the purpose of carrying electric, feed and other wires, commencing in the County of Lorain, State of Ohio, Township of Russia at or near the intersection of the Elyria-Oberlin Road and East Lorain Street of the Village of Oberlin extended, east of Oberlin; thence in a westerly direction through said township of Russia, County of Lorain; thence northwesterly through the Township of Henrietta in said County, to the Village of Birmingham Florence Township, Erie County, State of Ohio; thence westerly through said Florence Township and Berlin Township of said Erie County to the Village of Berlin Heights in said Township; thence southwesterly through said Township and through the Township of Milan in said County; thence southwesterly through the Township of Norwalk, Huron County, State of Ohio to the Easterly limits of the City of Norwalk, Huron County, State of Ohio; thence over and across streets and ways in the City of Norwalk to the Sub-station and Power House of the Grantor in said City;

Said right of way for the maintenance of the pole line as aforesaid and as herein granted, being all the right, title and interest of the Grantor in and to its right of way or easement for the construction and maintenance of the pole line now owned by the Grantor, and extending between the points hereinbefore set forth and having been acquired by the Grantor, or its predecessors in title by grant of easement, appropriation proceedings, contract, license and franchise.

(5) Certain contracts, rights, franchises and privileges formerly belonging to the Cleveland Southwestern Railway and Light Company described in an assignment dated the 31st day of December, 1924, from the Cleveland Southwestern Railway and Light Company to Victor Emanuel, as follows:

(a) Contract between the Village of Oberlin, County

of Lorain and State of Ohio, party of the first part, and the Cleveland Southwestern and Columbus Railway Company, party of the second part, dated November 29, 1919, approved by Ordinance of the Council of the Village of Oberlin, County of Lorain, Ohio, August 19, 1919, which said contract was duly assigned to The Cleveland Southwestern Railway and Light Company, Grantor herein, by said Cleveland Southwestern & Columbus Railway Company and F. H. Wilson, Special Master thereof, by assignment dated April 15th, 1924, which contract is attached hereto and marked Exhibit "A".

(b) Contract between the Farmers Electric Power and Light Company and The Cleveland Southwestern Railway and Light Company dated October 8, 1924, attached hereto and marked Exhibit "B".

(c) Contract by and between The Wakeman & Butler Road Electric Company, Ltd., an Ohio corporation and The Cleveland Southwestern Railway and Light Company dated October 15, 1924, attached hereto and marked Exhibit "C".

(d) Contract between The Cleveland Southwestern & Columbus Railway Company and the Mutual Power and Light Company, an Ohio Corporation; dated March 15, 1919, which contract was assigned by the Cleveland Southwestern & Columbus Railway Company and F. H. Wilson, Special Master thereof, to the Grantor herein by assignment dated April 15th, 1924, which contract is attached hereto and marked Exhibit "D", together with Supplemental Agreement by and between said The Cleveland Southwestern & Columbus Railway Company and said The Mutual Light and Power Company dated October 16, 1923, and assigned to the Grantor herein by said assignment dated April 15th, 1924, said contract and said supplemental agreement being attached hereto and marked Exhibit "D".

(e) Agreement by and between certain persons designated as owners and using electric current for power, heat and light, and F. H. Wilson, Receiver of The Cleveland Southwestern & Columbus Railway Company dated October 25, 1922, and contracting with respect to a certain pole line running from Birmingham, Florence Township, Erie County, Ohio, to Kipton, Ohio, which contract is duly assigned by said F. H. Wilson, Special Master, to the Grantor herein by said assignment dated April 15th, 1924. Said agreement is attached hereto and marked Exhibit "E".

(f) Agreement between The Norwalk Gas and Electric Company and The Cleveland Southwestern Traction

Company dated February 14, 1903, together with certified abstract from the records of the City of Norwalk, Ohio, recorded in Council Journal Volume 7, Pages 65-75, consenting to such agreement, which agreement and the rights thereunder of said The Cleveland Southwestern Traction Company were transferred to The Cleveland Southwestern & Columbus Railway Company, successor to said The Cleveland and Southwestern Traction Company, and which agreement was duly assigned to The Cleveland Southwestern Railway and Light Company by said The Cleveland Southwestern & Columbus Railway Company and F. H. Wilson, Special Master thereof, by assignment dated April 15th, 1924. Said agreement and consent of the City of Norwalk are attached hereto and marked Exhibit "F". Together, also, with all contracts, franchises, grants, rights and privileges which the Grantor has or may have in the City of Norwalk, Ohio, in connection with the conduct of an electric light, heat and power business in said city.

(g) Agreement between certain owners desirous of securing electric current for power, light and heat, and F. H. Wilson, Receiver of The Cleveland Southwestern & Columbus Railway Company dated March 4, 1922, and assigned by said F. H. Wilson, Special Master aforesaid to The Cleveland Southwestern Railway and Light Company by assignment dated April 15, 1924. Said agreement is attached hereto and marked Exhibit "G".

(h) Together also with all contracts or agreements of the Grantor for the furnishing of light, heat and power from the certain three phase high tension lines of the Grantor assigned, transferred and conveyed to the Grantee by Bill of Sale dated December 31, 1924, and extending from the west property line of the Elyria Car Barns of the Grantor to the City of Norwalk; and any such contracts or agreements in the corporate limits of the Village of Oberlin, Ohio, and also all such contracts, franchises, rights, privileges and agreements of the grantor in the City of Norwalk, Ohio.

To Have and to Hold all said properties real, personal and mixed hereby mortgaged, pledged or conveyed, or intended so to be, unto the Trustee, its successors and assigns forever, subject as aforesaid.

In trust, nevertheless, for the equal and pro rata benefit and security of all and every of the bonds issued and to be issued hereunder and under said Original Mortgage, in accordance with the provisions thereof, without preference, priority or distinction as to lien of any over the others by reason of priority in time of the issue,

negotiation or maturity thereof; subject however, to the provisions of the said Original Mortgage and any Supplemental Indenture relating to any sinking fund for the benefit of the bonds of any particular series; and subject to the same conditions, provisions and covenants as are set forth in said Original Mortgage (and particularly as to all cash, stocks, obligations, bonds, and other securities not expressly required by the provisions of the Original Mortgage to be deposited with the Trustee, and also as to all bills and accounts receivable, damage claims and other claims for money, materials and supplies, to the rights reserved to the Company in the habendum clause of said Original Mortgage), to the same extent and with the same effect as if the property herein described and conveyed or assigned had been owned by the Company at the time of the execution of said Original Mortgage and had been specifically described therein and conveyed to the Trustee thereby and, it is hereby covenanted and agreed by and between the parties hereto that all of the terms, trusts, conditions, covenants and provisions contained in said Original Mortgage shall affect and apply to the property hereby conveyed or assigned to the same extent and with the same effect as if said property had been owned by the Company at the time of the execution of said Original Mortgage, and had been specifically described or mentioned therein and conveyed or assigned to the Trustee thereby.

Section 1. It is understood and agreed that this Supplemental Mortgage shall be construed in connection with and as a part of the Original Mortgage and that the covenants and provisions hereof shall be deemed as covenants and provisions of said Original Mortgage.

Section 2. The recitals of fact herein contained shall be taken as statements of the Company and shall not be construed as made by the Trustee. The Trustee makes no representations as to the value of any of the property described or mentioned in this Supplemental Mortgage or any part thereof, or as to the title of the Company thereto or as to the security afforded thereby and hereby or as to the validity of this Supplemental Mortgage or of the bonds or coupons issued hereunder and the Trustee shall incur no responsibility in respect of such matters.

The Trustee accepts the trust hereby created upon the terms and conditions herein and in the Original Mortgage provided.

In Witness Whereof, Ohio Electric Power Company, party hereto of the first part has caused its corporate

name and seal to be hereunto affixed and this instrument to be signed by its President or a Vice-President and attested by its Secretary for and in its behalf, and The Seaboard National Bank of the City of New York, party hereto of the second part, has caused its corporate name and seal to be hereunto affixed and this instrument to be signed by its President or a Vice-President and attested by its cashier or an assistant cashier all in the City of New York, as of the day and year first above written.

Ohio Electric Power Company,
By Leo Loeb,
(Seal) Vice-President.

Attest:
D. L. McDaniel,
Assistant Secretary.

In the Presence Of:
F. D. Reid,
C. B. Zeigler.

The Seaboard National Bank of the
City of New York,
By J. A. Burns,
(Seal) Vice-President.

Attest:
C. Clune,
Assistant Cashier.

In the Presence Of:
A. A. Johnson,
R. C. Smith.

State of New York, County of New York, ss.:

On this 29th of May, 1925, before me a Notary Public in and for said County, personally came and appeared Leo Loeb, who being by me duly sworn, did depose and say: That he resides in upper Montclair, New Jersey; that he is the Vice-President of Ohio Electric Power Company, the corporation described in and which executed the above instrument; that he knows the seal of said corporation; that the seal affixed to said instrument is such corporate seal; that it was so affixed by order of the Board of Directors of said corporation and that he signed his name thereto by like order; and that the above-named Vice-President and Assistant Secretary, respectively, of the Ohio Electric Power Company per-

sonally appeared before me and acknowledged that they did sign the foregoing instrument and that the same is the free act and deed of said Ohio Electric Power Company, and that it is the free act and deed of each of them personally, and as such officers.

In Testimony Whereof, I have hereunto set my hand and official seal at New York, N. Y., this 29th day of May, 1925.

Mae Coy,
(Seal) Notary Public,
New York County Clerk's No. 383.
New York County Register's No. 7337.
Commission expires March 30, 1927.

State of New York, County of New York, ss.:

On this 29th day of May, 1925, before me a Notary Public in and for said County, personally came and appeared J. A. Burns, who being by me duly sworn, did depose and say: That he resides in the City of New York; that he is the Vice-President of The Seaboard National Bank of the City of New York, the corporation described in and which executed the above instrument; and that he knows the seal of said corporation; that the seal affixed to said instrument is such corporate seal; that it was so affixed by order of the Board of Directors of said corporation; and that he signed his name thereto by like order; and the above-named Vice-President and Assistant Cashier, respectively, of The Seaboard National Bank of the City of New York, personally appeared before me and acknowledged that they did sign the foregoing instrument and that the same is the free act and deed of said The Seaboard National Bank of the City of New York, and the free act and deed of each of them personally and as such officers.

In Testimony Whereof, I have hereunto set my hand and official seal at New York, N. Y., this 29th day of May, 1925.

Adolph A. Johnson,
(Seal) Notary Public,
Bronx County No. 21; Register No. 2616A.
Cer. filed in N. Y. Co. No. 132; Reg. No. 6097.
Commission expires March 30th, 1926.

I hereby certify that the above and foregoing is a true and correct copy of the Supplemental Mortgage given by Ohio Electric Power Company to The Seaboard National Bank of the City of New York as Trustee as the same appears on the records of this office, being recorded in Mortgage Record Volume 95, pages 75-78 inclusive.

In Testimony Whereof, I have herounto set my hand and official seal at Norwalk, Huron County, Ohio, this 7th day of November, A. D. 1930.

Will H. Darling,
County Recorder.

(Seal) By Maudie Eaton,
Deputy.

PLAINTIFF'S EXHIBIT No. 30

In the District Court of the United States for the Northern District of Ohio, Western Division.

No. 1040 In Equity.

The Equitable Trust Company of New York,
Plaintiff,

vs.

City of Norwalk, Ohio,
Defendant.

CERTIFICATE

C. E. Bramble, Secretary and Treasurer of the Ohio Electric Power Company, an Ohio corporation, hereby certifies that he is Secretary and Treasurer of said corporation, and by virtue of his office he is in charge of the books containing both the financial records and a record of all corporate action taken by said company; that the directors and stockholders of said company, at respective meetings thereof duly called and held on or about August 28, 1924, conformably to the laws of Ohio, authorized the issue by said company of first mortgage gold bonds in one or more series, maturing at such dates and bearing interest at such rates, respectively, as the Board of Directors of said company should determine and as should be approved by the Trustee thereof; that such bonds were

to be coupon bonds, registerable or non-registerable as to principal, as the Board of Directors of the company might determine, and/or registered bonds without coupons to be executed under the corporate seal of the company, to be signed in its corporate name by its President or Vice-President, impressed with its corporate seal and attested by its Secretary or Assistant Secretary, and authenticated by the certificate of the Trustee thereof, and that the amount of the bonds so to be made, issued, authenticated and delivered was not to be limited, except that no further bonds should be issued at any time if the total amount of bonds outstanding after such issue would in any event exceed the then limit of indebtedness, if any, of the company permitted by law. By the terms of said bonds the Ohio Electric Power Company promised to pay, in the case of coupon bonds, to the bearer thereof, and in the case of registered bonds, to the registered owner thereof, or his assigns, at the office or agency of the company, the principal sum thereof at the maturity thereof with interest as specified therein, in gold coin of the United States of America of the standard weight and fineness as it then existed, on the presentation and surrender thereof, and that the form and tender of said bonds are set forth specifically in the mortgage and deed of trust hereinafter mentioned.

Said C. E. Bramble further certifies that to secure the payment of principal and interest of such bonds of the character above described as might thereafter be issued and outstanding, the Ohio Electric Power Company on or about September 2, 1924, duly executed and delivered to The Seaboard National Bank of the City of New York, as Trustee, the original of a certain mortgage and deed of trust, dated July 1, 1924, and on or about May 29, 1925, said Ohio Electric Power Company executed and delivered to said Seaboard National Bank of the City of New York, as Trustee, a certain supplemental mortgage to said mortgage and deed of trust, dated May 25, 1925; which mortgage and deed of trust and supplemental mortgage thereto are recorded in the Mortgage Records of Huron County, Ohio, in Volume 95, pages 41 to 74, both inclusive, and Volume 95, pages 75 to 78, both inclusive, respectively; that the execution and delivery of said mortgage and deed of trust and the said supplemental mortgage thereto was duly authorized by resolutions of the Board of Directors and of the stockholders of the Ohio Electric Power Company.

C. E. Bramble,
Secretary of the Ohio Electric Power Company.

PLAINTIFF'S EXHIBIT No. 31

In the District Court of the United States for the Northern District of Ohio, Western Division.

No. 1040 in Equity.

The Equitable Trust Company of New York,

Plaintiff,

vs.

City of Norwalk, Ohio,

Defendant.

AFFIDAVIT

State of Ohio, County of Shelby, ss:

C. E. Bramble, being first duly sworn, upon his oath, deposes and says that he is Secretary and Treasurer of the Ohio Electric Power Company, a corporation of the State of Ohio; that following the execution and delivery on or about September 2nd, 1924, by the Ohio Electric Power Company to The Seaboard National Bank of the City of New York of a certain mortgage and deed of trust; dated July 1, 1924, and following the execution and delivery on or about May 29, 1925, by said grantor to said grantee of a certain supplemental mortgage thereto, which mortgage and deed of trust and supplemental mortgage thereto are recorded respectively in Volume 95, pages 41 to 74, both inclusive, and Volume 95, pages 75 to 78, both inclusive, of the Mortgage Records of Huron County, Ohio, the Board of Directors of the Ohio Electric Power Company duly authorized, and said company duly made and executed bonds of the character specified in said mortgage and deed of trust and supplemental mortgage thereto, and submitted said bonds to said The Seaboard National Bank of the City of New York for authentication, all conformably to the provisions of the mortgage and deed of trust and supplemental mortgage thereto; that said bonds were thereupon authenticated by said Trustee and delivered to the Ohio Electric Power Company for issuance and sale; that said bonds were thereafter sold and delivered by the Ohio Electric Power Company for valuable considerations to numerous and various persons and corporations; that said bonds and/or bonds issued in place of a portion thereof, as hereinafter stated, are now outstanding in the hands of holders for value; that the amount of said bonds outstanding at no time has been in excess of the limit provided by law for bonded indebtedness of said the Ohio Electric Power

Company, and that the face amounts, dates of authentication, delivery, issuance and maturities of said bonds, with a statement of those now outstanding, are specifically set forth as follows:

1. Seven Hundred Fifty Thousand Dollars ($750,000.00) principal amount of First Mortgage Gold Bonds 6½% Series A were authenticated and delivered by the trustee on September 2nd, 1924, pursuant to Section 1 of Article III of the mortgage and deed of trust. Which bonds were issued and sold on or about September 2nd, 1924.

2. One Hundred Thousand Dollars ($100,000.00) principal amount of First Mortgage Gold Bonds 6½% Series A were authenticated and delivered by the Trustee on May 28, 1925, pursuant to Article V of the mortgage and deed of trust, upon the basis of property acquired by the Ohio Electric Power Company in May, 1925, including the Norwalk properties. Which bonds were issued and sold on or about May 28, 1925.

3. Ninety-nine Thousand Dollars ($99,000.00) principal amount of First Mortgage Gold Bonds 6½% Series A were authenticated and delivered by the trustee on October 1, 1925, pursuant to said Article V. Which bonds were issued and sold on or about October 1, 1925.

4. Six Hundred Forty-seven Thousand Dollars ($647,000.00) principal amount of First Mortgage Gold Bonds 6% Series B were authenticated and delivered by the trustee on August 30, 1926, pursuant to said Article V. Which bonds were issued and sold on or about August 30, 1926.

5. One Hundred Sixty-nine Thousand Two Hundred Dollars ($169,200.00) principal amount of First Mortgage Gold Bonds 5% Series due 1957 were authenticated and delivered by the trustee on June 20, 1927, pursuant to said Article V. Which bonds were issued and sold on or about June 20, 1927.

6. Prior to July 1, 1927, Sixteen Thousand Seven Hundred Dollars ($16,700.00) principal amount of bonds had been retired by the operation of the Sinking Fund, leaving outstanding a balance of One Million Five Hundred Seventy-nine Thousand Three Hundred Dollars ($1,579,300.00) principal amount of Series A and Series B Bonds, in addition to the One Hundred Sixty-nine Thousand Two Hundred Dollars ($169,200.00) principal amount of Series due 1957 Bonds. Prior to June 21, 1927, said One Million Five Hundred Seventy-nine Thousand Three Hundred Dollars ($1,579,300.00) principal amount Series A and Series B Bonds were called for redemption

on July 1, 1927, and on June 21, 1927, provision was made for the payment thereof, as provided in Article VI of the mortgage and deed of trust, and One Million Nine Hundred Thirty Thousand Eight Hundred Dollars ($1,930,800.00) principal amount of First Mortgage Gold Bonds 5% Series due 1957, were authenticated and delivered by the Trustee on June 21, 1927; funds for the payment of said One Million Five Hundred Seventy-nine Thousand Three Hundred Dollars ($1,579,300.00) principal amount Series A and Series B bonds, called for redemption as aforesaid, were obtained by the sale of a like amount of said series of First Mortgage Gold Bonds due 1957, all of which were issued and sold by the company on June 21, 1927, and said funds received from the sale of One Million Five Hundred Seventy-nine Thousand Three Hundred Dollars ($1,579,300.00) principal amount thereof were applied to the redemption of said One Million Five Hundred Seventy-nine Thousand Three Hundred Dollars ($1,579,300.00) principal amount of bonds called for redemption, as aforesaid, the remaining Three Hundred Fifty-one Thousand Five Hundred Dollars ($351,500.00) principal amount of said issue was issued and sold and the proceeds thereof applied pursuant to Article V of said Mortgage and Deed of Trust to the redemption of a like amount of underlying bonds as therein defined.

7. Five Hundred Thousand Dollars ($500,000.00) principal amount First Mortgage Gold Bonds 5% Series due 1957 were authenticated and delivered by the Trustee on December 31, 1929, pursuant to Article V of the Mortgage and Deed of Trust, which bonds were issued and sold.

C. E. Bramble.

Sworn to before me and subscribed in my presence this 8th day of November, 1930.

(Seal) Ruby G. Beemer (Lytle).

PLAINTIFF'S EXHIBIT No. 32

In the District Court of the United States for the Northern District of Ohio, Western Division.

No. 1040 In Equity.

The Equitable Trust Company of New York,

Plaintiff,

vs.

City of Norwalk, Ohio,

Defendant.

CERTIFICATE

C. L. Clime hereby certifies that he is an Assistant Trust Officer of The Chase National Bank of the City of New York; that the records of the former The Seaboard National Bank of the City of New York, trustee, and of the former The Equitable Trust Company of New York, successor trustee, with reference to a certain mortgage and deed of trust dated July 1, 1924, and executed and delivered by the Ohio Electric Power Company to said Seaboard National Bank on September 2, 1924, and with reference to the mortgages supplemental thereto are now in the possession and control of The Chase National Bank of the City of New York as successor trustee under said mortgage and deed of trust and said supplemental mortgages; that these records show that bonds of the character described and provided for in said mortgage and deed of trust and said supplemental mortgages were from time to time executed and delivered by the Ohio Electric Power Company to the trustee at the time under said mortgage and deed of trust with a request for the authentication of said bonds by said trustee, all in accordance with the provisions of said instruments, and that said bonds were duly authenticated by said trustee and delivered to said Ohio Electric Power Company for issuance and sale, all as hereinafter more particularly set forth:

1. Seven Hundred Fifty Thousand Dollars ($750,000) principal amount of First Mortgage Gold Bonds 6½% Series A were authenticated and delivered by the trustee on September 2, 1924, pursuant to Section 1 of Article III of the mortgage and deed of trust.

2. One Hundred Thousand Dollars ($100,000.00) principal amount of First Mortgage Gold Bonds 6½% Series A were authenticated and delivered by the trustee

on May 28, 1925, pursuant to Article V of the mortgage and deed of trust, upon the basis of property acquired by the Ohio Electric Power Company in May, 1925, including the Norwalk properties.

3. Ninety nine Thousand Dollars ($99,000.00) principal amount of First Mortgage Gold Bonds 6½% Series A were authenticated and delivered by the trustee on October 1, 1925, pursuant to said Article V.

4. Six Hundred Forty seven Thousand Dollars ($647,000.00) principal amount of First Mortgage Gold Bonds 6% Series B were authenticated and delivered by the trustee on August 30, 1926, pursuant to said Article V.

5. One Hundred Sixty nine Thousand Two Hundred Dollars ($169,200.00) principal amount of First Mortgage Gold Bonds 5% Series due 1957 were authenticated and delivered by the trustee on June 20, 1927, pursuant to said Article V.

6. Prior to July 1, 1927, Sixteen Thousand Seven Hundred Dollars ($16,700.00) principal amount of bonds had been retired by the operation of the Sinking Fund, leaving outstanding a balanceof One Million Five Hundred Seventy-nine Thousand Three Hundred Dollars ($1,579,300.00) principal amount of Series A and Series B Bonds, in addition to the One Hundred Sixty-nine Thousand Two Hundred Dollars ($169,200.00) principal amount of Series due 1957 Bonds. Prior to June 21, 1927, said One Million Five Hundred Seventy nine Thousand Three Hundred Dollars ($1,579,300.00) Series A and Series B Bonds were called for redemption on July 1, 1927, and on June 21, 1927, provision was made for the payment thereof as provided in Article VI of the mortgage and deed of trust, and One Million Nine Hundred Thirty Thousand Eight Hundred Dollars ($1,930,800.00) principal amount of First Mortgage Gold Bonds 5% Series due 1957 were authenticated and delivered by the trustee on June 21, 1927, One Million Five Hundred Seventy-nine Thousand Three Hundred Dollars ($1,579,300.00) thereof pursuant to Article VI of the mortgage and deed of trust upon the basis of the redemption of a like amount of Series A and Series B Bonds as aforesaid, and Three Hundred Fifty-one Thousand Five Hundred Dollars ($351,500.00) thereof pursuant to said Article V upon the basis of provision being made for the redemption of a like amount of underlying bonds.

7. Five Hundred Thousand Dollars ($500,000.00) principal amount of First Mortgage Gold Bonds 5% Series due 1957 were authenticated and delivered by the

trustee on December 31, 1929, pursuant to Article V of the mortgage and deed of trust.

C. L. Clune,
Assistant Trust Officer.

Dated November 6, 1930.

PLAINTIFF'S EXHIBIT No. 33

O.K. as to form—E. F. B., H. C. L.

Council Records of the City of Norwalk, Ohio
Dated July 25, 26, and 30, 1890
(Vol. 3 pp. 456)

COUNCIL RECORDS

Norwalk, O., July 25, 1890.

Council of the City of Norwalk, Ohio, met on the following special call of the Mayor:

Mayor's Office, Norwalk, O.,
July 25, 1890

City Councilmen:

You are hereby notified that a special session of the City Council of the City of Norwalk, O. is called to at the Council Chamber on the 25th day of July, 1890, at 7 o'clock P.M. for the consideration of the following business, to-wit:

To pass Ordinance Granting Franchise for Electric Lights, also to pass Ordinance to provide for the Appointment of Inspector of Natural Gas Connections. The above notice was sent to all members of the City Council.

S. E. Crawford, Mayor.

Present—Himberger, Hoddick, Laning, Morgan, Redfield and Suydam. Absent—Meyers, Ryner, Simmons and VanDusen.

President Himberger in the chair.

AN ORDINANCE

To grant certain privileges as therein set forth to the Norwalk Incandescent Light Company of Norwalk, Ohio. Read first time.

AN ORDINANCE

To provide for the appointment of an inspector of Natural Gas Connections, the licensing of gas fitters and the inspection of Natural Gas fittings and connections. Read first time.

This completing the business of the call the Council stood adjourned.

Pres. of the Council.

Attest: John W. Rexford, City Clerk.

(Vol. 3 pp. 457)

Norwalk, O., July 26, 1890.

Council of the City of Norwalk, Ohio, met in special session on call of the Mayor for the passage of the Incandescent Light Ordinance and the ordinance for the appointment of an inspector for Natural Gas Connections.

Present—Himberger, Morgan, Meyers, Redfield, Simmons, Suydam and Clerk Rexford. Absent—Hoddick, Laning, Ryner and VanDusen.

President Himberger in the chair.

The Ordinance granting right of way to the Norwalk Incandescent Light Company read second time.

The Ordinance for the appointment of an inspector for Natural Gas Connections read second time.

On motion Council adjourned.

President of the Council.

Attest: John W. Rexford, City Clerk.

(Vol. 3. pp. 458-459)

Norwalk, O., July 30, 1890.

Council of the City of Norwalk, Ohio, met in special session on call of the Mayor for the purpose of passing the Ordinance granting Right of Way to the Norwalk Incandescent Light Company of Norwalk, Ohio, and for the passage of the Ordinance for the appointment of an Inspector of Natural Gas Connections.

Present—Himberger, Hoddick, Laning, Morgan, Redfield, Simmons, Suydam, Clerk Rexford and City Solicitor Mitchell. Absent—Meyers, Ryner and VanDusen.

President Himberger in the chair.

AN ORDINANCE

The following Ordinance to grant certain privileges as therein set forth to the Incandescent Light Company of Norwalk, Ohio, was read the third time.

AN ORDINANCE

To grant certain privileges as therein set forth to the Incandescent Light Company of Norwalk, Ohio.

For copy of ordinance see Exhibit A attached to second amendment and supplement to the bill of complaint. (Supra, page 35.)

Mr. Redfield moved the passage of the Ordinance, seconded by Morgan. Ayes and nays being called for, the vote stood as follows:

Ayes—Himberger, Hoddick, Laning, Morgan, Redfield, Simmons and Suydam 7. Nays 0.

Ordinance declared passed.

AN ORDINANCE

The following Ordinance for the appointment of an inspector for natural gas connections was read the third time. Mr. Meyers came in at this time.

AN ORDINANCE

To provide for the appointment of an inspector of natural gas connections, the licensing of gas fitters and the inspection of natural gas fittings and connections.

Mr. Laning moved the passage of the Ordinance, seconded by Suydam. Ayes and nays being called for, the vote stood as follows:

Ayes, Himberger, Hoddick, Laning, Morgan, Meyers, Redfield, Simmons and Suydam 8. Nays—0.

Ordinance declared passed.

Council adjourned.

Pres. of the Council.

Attest: John W. Rexford, City Clerk.

PLAINTIFF'S EXHIBIT No. 34

O.K. as to form—E. F. B., H. C. L.

Council Records of the City of Norwalk, Ohio,
Dated October 7, 1890.
(Vol. 3, p. 484)

COUNCIL RECORDS

Norwalk, O., Oct. 7, 1890.

Council of the City of Norwalk, Ohio, met in regular session. Present: Hoddick, Laning, Morgan, Meyers, Redfield, Rynn, Simmons, Suydam, Van Dusen, City Clerk Rexford and City Solicitor Mitchell—absent, Himberger.

President pro tem Rynn in the chair.

Minutes of last meeting read and approved.

Mayor Crawford's certificate read and ordered filed.

Ordinance. Mr. Hoddick offered the following Ordinance and moved the suspension of the rules requiring its reading on three separate days. Seconded by Redfield. On call of the Ayes and Nays the vote stood as follows: Ayes 9, Nays 0. Rules declared suspended.

Mr. Hoddick seconded by Laning moved the passage of the Ordinance. On call of the Ayes and Nays the vote stood as follows. Ayes 9, Nays 0. Ordinance declared passed.

AN ORDINANCE

An Ordinance to Amend an Ordinance Entitled—An Ordinance to Grant Certain Privileges as therein set forth to The Incandescent Lighting Company of Norwalk, Ohio, Passed July 30, 1890.

For copy of ordinance see Exhibit B attached to the second amendment and supplement to the bill of complaint. (See supra, page 36.)

Mr. Redfield moved that Council adjourn. Seconded by Meyers. Motion declared carried.

Pres. Pro Tem of Council.

Attest: John W. Rexford, City Clerk.

PLAINTIFF'S EXHIBIT No. 35

O.K. as to form—E. F. B., H. C. L.

ORDINANCE OF THE CITY OF NORWALK

The following is a copy of an Ordinance as found in a bound volume purporting to be a publication in book form of the General Ordinances of the City of Norwalk, which appears to have been published as a codification of the General Ordinances of the City of Norwalk under an Ordinance passed by the Council of the City of Norwalk, on the 26th day of March, 1895. Said Ordinance appears under the caption "Subdivision 4—Incandescent Light Company," and immediately follows this statement, together with certification as found in said General Ordinance Book:

NATURE AND EXTENT OF GRANT CONDITIONS

"Sec. 62. The Norwalk Incandescent Light Company, of Norwalk, Ohio; its successors and assigns, are hereby granted for the term of twenty years from the passage of this ordinance, the right of way through, in and upon the streets, sidewalks and alleys and public grounds of said city for the use and purpose of therein and thereon erecting and maintaining and using all necessary poles or posts of wood, iron or other suitable material, and the necessary wires to successfully operate and use a system of incandescent lighting in said city; provided, that the said company, its successors or assigns shall maintain and use under reasonable restrictions and rules said poles or posts and wires. That said poles or posts and wires on Main Street in said city shall be at least twenty feet high, and of the usual height otherwise, and be so placed as not to interfere with the travel upon such streets or other places, or with any ornamental or shade trees without the consent of the owners thereof, or of the City Commissioner; and provided further, that on all those parts of such streets or other public places where said poles or wires are erected, the same shall be kept and maintained in good order by said Company, its successors and assigns; and provided further, that said posts and wires shall be so placed as not to interfere with the flow of water in any drain or gutter of said city. The points for the location of such poles or posts shall be determined under the direction of the Street Commissioner or the Council. This grant of way is not exclusive, and the Council reserves the

power to grant similar powers to other parties whenever in its opinion it deems it advisable so to do, but such rights shall not be used so as to interfere with the rights herein granted."

Passed October 7, 1890.

(CERTIFICATION)

"We hereby certify that the above and foregoing ordinance, providing for the revision, codification, arrangement and publishing in book form of the ordinances of the city of Norwalk, Ohio, contains a true and correct revision, codification and arrangement of the ordinances of said city, now in force.

A. C. Greene,
Mayor of the City of Norwalk, Ohio.

Attest: F. W. Christian, City Clerk.
Norwalk, Ohio, March 26, 1895."

PLAINTIFF'S EXHIBIT No. 36

O.K. as to form—E. F. B., H. C. L.

An Ordinance Ordering All Poles in the City of Norwalk, Ohio, to be Painted, and All Unused Poles to be Removed.

Be it ordained by the Council of the City of Norwalk, Ohio, that in compliance with the Codified Ordinances of the said City, the Clerk of said City be and hereby is ordered to notify all companies operating and using poles in this city, that they shall within 60 days from the notice of the said City Clerk, paint all poles standing in the street of said city, and to remove all unused poles; and that upon failure so to do, in the time specified, that the same will be done by the City and the cost and expense of said painting will be charged to the owners of said poles and same collected by legal process.

On motion of Keifer and second of Doane the Ordinance was passed. Yeas 9, Blume, Dillingham, Doane, Gregory, Hill, Kiefer, Lee, Niles and Schwarz. Nays 0.

On motion of Doane and second of Niles, the rules requiring the ordinance to be read on three separate days, was suspended. Yeas 9, Blume, Dillingham, Doane, Gregory, Hill, Kiefer, Lee, Niles and Schwarz. Nays 0. On motion of Doane and second of Hill the ordinance was passed. Yeas 9. Blume, Dillingham, Doane, Gregory, Hill, Kiefer, Lee, Niles and Schwarz. Nays 0.

Ordinance passed May 6, 1901, Vol. 7, page 498, Council Records.

I, F. G. Warner, City Auditor and Clerk of Council of the City of Norwalk, Ohio, do hereby certify that the foregoing is a true and correct copy of the records of the Council of the City of Norwalk, the same being in my possession and under my control.

(Signed) F. G. Warner.

PLAINTIFF'S EXHIBIT No. 37

O.K. as to form—E. F. B., H. C. L.

City Council Chamber,
Norwalk, O., Jan. 4, 1916.

City council met in regular session with President Holiday, Clerk Christian and the following members present: Cole, Fifner, Haas, Heston, Smith, A. C., Spurrier. Absent, Smith, C. R.

ORDINANCE

To authorize the Director of Public Service to contract with Telephone and Electric Companies for the joint use of poles.

Be it ordained by the Council of the City of Norwalk, State of Ohio, as follows, to-wit:

Section 1. That the Director of Public Service be and he hereby is authorized to enter into such contract or contracts as he may deem proper with telephone companies or electric companies operating within the City of Norwalk, for the joint use by the City of poles owned and used by such company or companies of poles owned and used by the city for the distribution of electric current, for the purpose of reducing the duplication of poles on the streets of said city, where, in the opinion of the Director of Public Service such joint use can be made without detriment or danger to the distribution of electric current on said city's distribution system.

Section 2. That this ordinance shall take effect and be in force from and after the earliest period allowed by law.

It was moved by Fifner, seconded by Smith, A. C., that the rules requiring the ordinance to be read on three separate days be suspended. Ayes, Cole, Fifner, Haas, Heston, Smith, A. C., Spurrier.

On motion of Smith, A. C., seconded by Haas, the ordinance was passed. Ayes, Cole, Fifner, Haas, Heston, Smith, A. C., Spurrier.

On motion of Cole, seconded by Spurrier, council adjourned to Tuesday, January 11, at 7:30 o'clock. Ayes, 6.

A. C. Holiday, President,
R. L. Christian, Clerk.

I, F. G. Warner, City Auditor and Clerk of Council of the City of Norwalk, Ohio, do hereby certify that the foregoing is a true and correct copy of the records of the council of the City of Norwalk, the same being in my possession and under my control.

(Signed) F. G. Warner.

PLAINTIFF'S EXHIBIT No. 38

O.K. as to form—E. F. B., H. C. L.

Passed July 1, 1924.

CONSTRUCTION AND MAINTENANCE OF ELECTRIC LIGHT AND POWER WIRES

AN ORDINANCE

Be it ordained by the Council of the City of Norwalk, Ohio, three-fourths of all members elected thereto concurring, as follows:

Section 1. That all electric light and power wires, telephone, signal and trolley wires in operation in the corporate limits of the City of Norwalk, Ohio, shall be constructed and maintained in accordance with the following specifications, in regard to clearances, spacing, heights and positions. Duplicate poles lines shall be avoided where possible and safety of the public and workmen must be given first consideration in constructing all lines.

Section 2. Poles. Poles shall be of a height sufficient to allow spacing of conductors as below, when used as joint poles. And when used by one utility only, they shall be only high enough to allow the proper vertical spacing of the utilities wires, and give the clearance from the bottom wire to ground of not less than 16 feet at the lowest point of sag. They shall be set not less than five feet in the ground nor nearer than 10 feet to a plug. They shall be spaced at a distance apart of not less than 140 feet and not nearer the curb than 6 inches inside the curb to the face of the pole, where pipe lines or other conditions conflict with this spacing, permit must be received from the Service Director before setting closer to curb, and consideration must be given driveways and property lines.

They must be painted and set in line parallel with the street and must be set straight with the exception of poles supporting trolley wires which may be raked away from the trolley, not to exceed 12 inches.

If stepped, they may be stepped with wood blocks to a height of 8 feet; blocks to be set in the lead, and metal stops to be set at right angles to the lead, the lowest step to be on the field side of the pole.

Section 3. Guy Wires and Guys. Guys shall be installed where a line terminates or changes direction. Guy wire to be not smaller than #9 galvanized iron and to

be fastened to an anchor placed in line with the pull of the pole line at a distance from the pole of not less than ¼ of the distance it is attached up the pole, and shall be insulated from the pole at a distance of not less than 6 feet, by an insulator similar to #504, and a similar insulator placed at least 8 feet from the ground, and a shield to be placed on all guys to extend at least 8 feet from the ground. Line guys when anchored to a pole 8 feet or above the ground need not be shielded but must have same insulator as a ground guy.

Section 4. Relative Levels of Wire Cables and Suspension Lines. Conductors shall be arranged in the order of their operation voltage, the highest voltage conductors to occupy the highest position on the poles and the supporting structure or cross arm to be set not less than 9 inches from the top of the pole to the center. The secondary or supply lines, to be not less than 24 inches center to center next below the top support. The signal lines or suspension wires to be not less than 36 inches next below the secondary wires, they may, however, give this position to the trolley span wire or feeders, or private signal wires, maintaining at all times not less than 16 feet between the lowest point of sag and the ground, and spacing at least 24 inches clearance between such trolley span wires, feeders private signal lines and the signal lines or cables.

Vertical spacing of cross arms or secondary racks of supply lines shall be not less than 24 inches from center to center. Service wires of electric or signal utilities may be placed where convenient so that they will at all times maintain a distance above the ground which will be equal to the height of the service or not less than 12 feet above the ground and to clear other wires or cables of different utility by at least 12 inches on voltage of 0 to 300 and 30 inches on voltages of 300 to 7500.

Section 5. Cross Arms Supporting and Wires Sizes. All cross arms to be attached to the pole in a gain not less than ½ inch deep, with a ⅝ inch through bolt, braced with two braces set down the pole the same distance they are out from the center of the pole, to be on the outside of the cross arm bent to meet the pole parallel to the pole. Wire for electric light and power to be not less than #8 for voltage up to 750 volts and to be not smaller than #6 for all voltages of over 750 volts, all wire to be triple braid cotton weather proof. Bare wire to be prohibited for use on any electric light or supply lines.

Section 6. Transformers and Cable Boxes. Transformers to be hung from a cross arm supporting the pri-

mary wires feeding the transformer and to be not less than 24 inches below the secondary to which it is connected, the bottom of the transformer to be not less than 60 inches clearance above signal wires, cables or suspension wires. Transformers of over 25 Kilowatt capacity are to be supported on a platform suitably braced and same clearance above, except clearance between the platform and signal wires and cables may be not less than 12 inches.

Cable boxes and transformers are not to be placed on the same pole and cable boxes must clear secondary supply lines by 12 inches and other lines in same spacing as signal wires and cables.

Section 7. Horizontal Clearance or Spacing of Wires. The minimum separation in a horizontal direction at points of support of supply conductors carrying a difference of potential of 0 to 500 volts shall be not less than 6 inches. A difference of potential of 500 volts to 7500 volts of not less than 12 inches. Where conductors of one line are carried near the supporting structure of another line and within 30 inches of the supporting structure of the other line, they must be attached to the supporting structure, maintaining their relative position on the structure. Climbing space shall be maintained on all poles of not less than 30 inches on one side of the pole.

Where more than one cable or secondary or suspension wire is attached to the same pole, they should be as far as possible, all on the same side of the pole. Horizontal position on cross arms shall be arranged with the street light wires taking the outermost pins, the primary next and if secondary is placed on the same cross arm, they should take the pole pins.

Section 8. Under ground supply lines or risers shall be in insulating or metal conduit to a point at least 12 feet above the ground and if signal wires, trolley feed wires, suspension or cable are attached to he same pole the conduit shall extend above the feeders, signal wires or cables. Transformers connected three wire shall have neutral wire grounded by being permanently and mechanically connected and soldered to a ground of not less than #— weatherproof copper wire run down the pole and connected to the ground plate, pile or coil, in the ground a sufficient depth to make good damp contact at all times and covered by wooden strips nailed to the pole.

Trees shall be kept trimmed at all times so that neither the movement of the trees nor increased sagging

of the wires shall make contact. A permit for trimming trees shall be received from the Service Director in writing and trees trimmed neatly and all precaution taken to safeguard the health of the tree. This applies to all electric supply lines having a potential to ground of 500 volts or over, and the cost of trimming shall be prorated to the utilities having lines or poles on conflict with the tree. On discontinuance of any service the wires acting as supply or service lines shall be removed from the supporting structure or building to which they were attached within 30 days after such discontinuance and all poles are to be removed from the streets, alleys or private properties when vacant.

Section 9. All new construction shall be built in accordance with the above rules, and all wires, cables, suspension wires, etc., now in operation shall be made to meet these requirements when so ordered by the Director of Public Service, within 30 days after the date of the order.

Antenna of aerial for wireless shall not be connected to any pole or supported from any pole which is also supporting electric light wire of any voltage.

Any extensions or constructions of electric light or power lines for supply or secondary lines shall be approved by the Director of Public Service, before electricity can be turned on and a permit shall have been applied for and received before work on same is started.

Section 10. Penalty. Any extensions or constructions or existing conduit conditions not executed in conformity with the above shall be condemned and if not disconnected and removed within 30 days from the date of such condemnation, shall be disconnected and removed by the City under the direction of the Director of Public Service and the material sold to cover cost of such work.

Section 11. That all ordinances and parts of ordinances or any part thereof heretofore passed by the Council of the City of Norwalk, Ohio, not in conformity with the foregoing sections are hereby repealed.

Section 12. That this ordinance shall take effect and be in force from and after the earliest period allowed by law.

L. A. Heston, President of Council.

Attest F. G. Warner, Clerk.

Approved A. C. Smith, Mayor.

PLAINTIFF'S EXHIBIT No. 39.

O.K. as to form—H. C. L., E. F. B.

(Copy)

City Council Chamber,
Norwalk, Ohio, Sept. 1, 1925.

A Resolution was read to authorize the City Solicitor to secure as assistant Council, G. Ray Craig to assist him in the probable litigation between the City of Norwalk and the Ohio Electric Company. The Clerk of Council was asked to read the Ordinance to Regulate the Construction and Maintenance of Electric Light and Power Wires, Telephone, Signal and Trolley Wires.

It was stated by Mr. Leighton, when asked if the Ohio Electric Company was violating the provisions of the Ordinance, that they had and were still violating same.

It was moved by Schock, seconded by Wilson, that the Resolution be passed. Roll call, Yeas, Schwartz, Ernsthausen, Wilson, Schock, Stoll and Fifner. Nay, Ruffing. Yeas, six. Nays, one. The resolution was declared passed.

I, F. G. Warner, City Auditor and Clerk of Council of the City of Norwalk, Ohio, do hereby certify that the foregoing is a true and correct copy of the records of the council of the City of Norwalk, the same being in my possession and under my control.

(Signed) F. G. Warner.

PLAINTIFF'S EXHIBIT No. 40

O.K. as to form—H. C. L., E. F. B.

RESOLUTION

To secure assistant council in the probable litigation between the City of Norwalk and the Ohio Electric Power Company.

Be it resolved by the Council of the City of Norwalk, Ohio, two-thirds of all members elected thereto concurring as follows:

Section 1. That the City Solicitor is hereby authorized and empowered to retain the services of G. Ray Craig to assist him in the probable litigation between the City of Norwalk, Ohio, and The Ohio Electric Company.

Section 2. That this resolution shall take effect and be in force from and after the earliest period allowed by law.

Passed September 1, 1925.

L. A. Heston,
President of Council.

Attest: F. G. Warner, Clerk.
Approved: A. C. Smith, Mayor.

I, F. G. Warner, Auditor of the City of Norwalk, Ohio, and clerk of council, hereby certify that the resolution hereto attached is a true copy as passed September 1, 1925, per council record Vol. 8, page 424.

(Signed) F. G. Warner,
City Auditor and Clerk of Council.

PLAINTIFF'S EXHIBIT No. 41

O.K. as to form—E. F. B., H. C. L.

Council Records of the City of Norwalk, Ohio;
Dated March 23, 1926.
(Vol. 8, p. 445, et seq.)

COUNCIL RECORDS

"City Council Chamber,
Norwalk, Ohio, March 23, 1926.

City Council met this day in adjourned session from March 16, with L. A. Heston, President of Council, and members Schwartz, Ernsthausen, Wilson, Burdue, Call and Fifner.

Minutes of session of March 2 and March 16 were approved as read.

* * *

A resolution was read the first time requiring The Ohio Electric Power Company within thirty (30) days, to remove and take from all the public streets, alleys, and other public places, in said City of Norwalk, Ohio, such of its poles, wires, lines, guys, braces, cross arms and all other equipment, now located in said public streets, etc.

It was moved by Call, seconded by Fifner, that the rules be suspended requiring reading of the Ordinance on three separate days. Roll call, yes, Schwartz, Ernsthausen, Wilson, Burdue, Call and Fifner. Yeas, six. Nays, none. Absent, Stoll. The Rules were declared suspended.

It was moved by Wilson, seconded by Call, that the Resolution be passed. Roll call, yes, Schwartz, Ernsthausen, Wilson, Burdue, Call and Fifner. Yeas, six. Nays, none. Absent, Stoll. The Resolution was declared passed.

* * *

On motion of Ernsthausen, seconded by Fifner, Council adjourned.

(Signed) L. A. Heston, Pres. of Council.
(Signed) F. G. Warner, Clerk."

PLAINTIFF'S EXHIBIT No. 42

O.K. as to form—E. F. B., H. C. L.

Resolution of Norwalk City Council Requesting Ohio Electric Power Co. to Remove Its Equipment From the Streets of Norwalk, Ohio, Passed March 23, 1926.

RESOLUTION

Whereas, the City of Norwalk, Ohio, is the owner of a municipal lighting system, consisting of a plant for the generation of electricity for lighting and power purposes and of certain transmission lines located in the public streets, alleys and public grounds of said City; and

Whereas, Ohio Electric Power Company is, also, maintaining and operating in various public streets, alleys and public places in said City electric transmission lines, consisting of poles, wires and other equipment; and

Whereas, said Ohio Electric Power Company is maintaining and operating its said transmission lines without any franchise, license or authority from said City of Norwalk, and in the maintenance and operation of its said lines, said Ohio Electric Power Company has and is interfering with said municipal lighting system; and

Whereas, the said transmission lines of said Ohio Electric Power Company are obstructions and encumbrances in the streets, alleys and other public places of said City, and are a source of danger and a menace to the safety of the persons using said streets, alleys and other public places:

Now, Therefore, Be It Resolved by the Council of the City of Norwalk, State of Ohio, that said Ohio Electric Power Company be notified, by the service of a copy of this Resolution duly certified by the Clerk of said Council, upon the managing officer, or agent or agents of said Ohio Electric Power Company, in said City of Norwalk, Ohio, that said Ohio Electric Power Company be, and is hereby, required, within thirty (30) days from the service of said certified copy of this Resolution upon its said managing officer or agent or agents, to remove and take from all the public streets, alleys and other public places in said City of Norwalk, Ohio, such of its poles, wires, lines, guys, braces, cross-arms and all other equipment, now located in said public streets, alleys and other public places, and that said Ohio Electric Power Company be required to take from, and out of, said streets,

alleys and other public places all of its physical property now located therein.

Be It Further Resolved by said Council of said City of Norwalk, State of Ohio, that F. G. Warner, Auditor of said City, and ex-officio Clerk of said Council, be, and he hereby is, authorized, within three (3) days after the passage of this Resolution and its legal advertisement, to serve upon the managing officer or managing agent or agents of said Ohio Electric Power Company, in said City of Norwalk, Ohio, a certified copy of this Resolution and of the fact that the same was passed by said Council at a meeting held by it, at the City of Norwalk, Ohio, on the twenty-third day of March, 1926, and that said F. G. Warner, as said Auditor and ex-officio Clerk of said Council, be required to make return to said Council of his proceedings in making said service.

Passed March 23, 1926.

L. A. Heston, Pres. of Council.

Attest: F. G. Warner, Clerk
Approved: A. C. Smith, Mayor.

PLAINTIFF'S EXHIBIT No. 43

O.K. as to form—E. F. B., H. C. L.

Council Records of the City of Norwalk, Ohio,
Dated April 6, 1926.
(Vol. 8, p. 447.)

COUNCIL RECORDS

"City Council Chamber,
Norwalk, Ohio, April 6, 1926.

City Council met this day in regular session with President of Council, L. A. Heston, and members Schwartz, Ernsthausen, Wilson, Burdue, Call and Fifner. Absent, Stoll.

Minutes of last meeting read and approved.

* * *

The City Auditor, as directed at the previous Council meeting, read his 'Return of Service of Resolution and Certificate thereto on the Ohio Electric Power Company, copy of which is as follows:

'To the Council of the City of Norwalk, Ohio:

Return of service of resolution and certificate thereto on Ohio Electric Power Company.

The State of Ohio, Huron County, ss.

I, F. G. Warner, Auditor of the City of Norwalk, Ohio, and ex-officio Clerk of the Council of said City, do hereby certify and represent that on the third day of April, in the year 1926, I, as said Auditor and Clerk, did serve upon D. E. Turkle, as Managing Agent of Ohio Electric Power Company, at the office of said Ohio Electric Power Company, at the City of Norwalk, Ohio, by handing to him personally, a duly certified copy of the Resolution passed by the Council of said City of Norwalk, Ohio, on the 23rd day of March, 1926, and of the fact that the same was passed by said Council at a meeting held by it in the City of Norwalk, Ohio, on said 23rd day of March, 1926, a true copy of which said Resolution is hereto attached, together with a true copy of the Certificate thereto.

And I do further certify that true copies of all attached documents, which I, as said Auditor and Clerk so handed to said D. E. Turkle, as said Managing Agent, are hereto attached constituting a part of this return.

In Witness Whereof, I have hereto set my hand and the seal of the City of Norwalk, Ohio, on this sixth day of April, in the year 1926.

(Signed) F. G. Warner,
Auditor of the City of Norwalk, Ohio, and
Clerk exofficio of the Council of said City.

It was reported that a Junk Yard had been started at the corner of League and Milan Avenue, in conflict with the City Ordinance. The same was referred to the Mayor for action.

An Ordinance to Regulate the Parking of Motor Vehicles after discussion was placed on its first reading.

On motion of Schwartz, seconded by Fifner, Council adjourned.

(Signed) L. A. Heston, Pres. of Council
(Signed) F. G. Warner, Clerk.''

PLAINTIFF'S EXHIBIT No. 44

Council Records of the City of Norwalk, Ohio,
Dated May 18, 1926.
(Vol. 8, p. 451.)

COUNCIL RECORDS:

"City Council Chamber,
Norwalk, Ohio, May 18, 1926.

City Council met this dav in regular session with L. A. Heston, President of Council and members Schwartz, Ernsthausen, Wilson, Call and Fifner. Absent, Soll and Burdue.

Minutes of last meeting read and approved.

The Committee on the Gray Street proposed improvement were not ready to report and were given further time.

A Resolution was read, asking the Prosecuting Attorney of Huron County, E. G. Martin, to commence quo warranto ouster proceedings against the Ohio Electric Power Company.

It was moved by Fifner, seconded by Call that the Resolution be passed. Roll call, yes, Schwartz, Ernsthausen, Wilson, Call and Fifner. Yeas, five. Nays, none. Absent Burdue and Stoll. The resolution was declared passed.

* * *

On motion of Schwartz, seconded by Fifner, Council adjourned.

(Signed) L. A. Heston, Pres. of Council.
(Signed) F. G. Warner, Clerk."

PLAINTIFF'S EXHIBIT No. 45

O.K. as to form—E. F. B., H. C. L.

Resolution of the City Council of Norwalk Requesting Quo Warranto Proceedings for Ouster of Ohio Electric Power Co., Passed May 18, 1926.

A RESOLUTION

Whereas, The Ohio Electric Power Company, a corporation, has taken charge and possession of, as of right, and is now using the public streets, lanes, alleys, avenues and public places of the City of Norwalk, State of Ohio, for the erection and maintenance of poles, wires, guy wires and electrical equipment for the purpose of supplying private individuals, firms and corporations of said City with electricity for commercial and private lighting purposes and is charging and receiving pay for said electricity so furnished, without the consent or authority of the State of Ohio, or of said City of Norwalk:

Now, Therefore, Be it Resolved by the Council of the City of Norwalk, State of Ohio, that complaint of said use by said The Ohio Electric Power Company be and hereby is made to Edgar G. Martin, as Prosecuting Attorney of Huron County, Ohio, and that said Edgar G. Martin, in his capacity as said Prosecuting Attorney, be, and he hereby is, requested, authorized and directed to take such legal steps as are provided under the laws of the State of Ohio in quo warranto to oust said The Ohio Electric Power Company from the use and enjoyment of said liberties, franchises and privileges.

And be it further resolved that said Edgar G. Martin, as said Prosecuting Attorney, Charles Suhr, as City Solicitor of said City, and G. Ray Craig, be engaged to do all things necessary in quo warranto proceedings for the ouster of said The Ohio Electric Power Company; and be it further resolved that the Clerk of said Council be, and he hereby is, authorized and directed to transmit to said Edgar G. Martin, as said Prosecuting Attorney, a duly certified copy of this resolution and its passage.

Passed May 18, 1926.

L. A. Heston, Pres. of Council.

Attest: F. G. Warner, Clerk.

Approved: A. C. Smith, Mayor.

PLAINTIFF'S EXHIBIT No. 46

O.K. as to form—E. F. B., H. C. L.

A RESOLUTION

To Employ Legal Counsel to Assist City Solicitor in Prosecuting Litigation in Federal Court.

Whereas, a suit entitled The Equitable Trust Company of New York vs. The City of Norwalk, Ohio, has been filed in the Distrct Court of the United States, Northern District of Ohio, Western Division, at Toledo, Ohio, in which suit the City of Norwalk is sought to be enjoined from enforcing the judgments and decrees of the Ohio Court of Appeals and the Ohio Supreme Court heretofore obtained in quo warranto proceedings against The Ohio Electric Power Company:

Now, Therefore, be it resolved by the Council of the City of Norwalk, State of Ohio, that G. Ray Craig, Norwalk, Ohio, and Edgar G. Martin, Norwalk, Ohio, be and hereby are employed as legal council to assist the City Solicitor in defending said suit, with full power to act in all matters pertaining to said case and incident thereto and also including such further actions as may be required in carrying out the orders and decrees of the State Courts in the quo warranto case against the Ohio Electric Power Company:

And, be it further resolved that the Clerk of said Council be, and hereby is, authorized and directed to transmit to said Edgar G. Martin, and G. Ray Craig duly certified copies of this resolution and its passage.

Passed January 13, 1930.

R. E. Fader,
President of Council.

Approved, Cort M. Schock, Mayor.

Attest: F. G. Warner, Clerk of Council.

I, F. G. Warner, City Auditor and Clerk of Council of the City of Norwalk, Ohio, do hereby certify that the foregoing is a true and correct copy of the records of the Council of the City of Norwalk, the same being in my possession and under my control.

(Signed) F. G. Warner.

PLAINTIFF'S EXHIBIT No. 47

O.K. as to form—E. F. B., H. C. L.

IN THE COURT OF COMMON PLEAS, HURON COUNTY, OHIO

No. 12781

Ohio Electric Power Company

Plaintiff

vs.

Northern Ohio Telephone Company, the City of Norwalk, Ohio, Fred Higgins, A. C. Smith and Bert Webster

Defendants

ACTION FOR INJUNCTION

Pleas before the Honorable Irving Carpenter, one of the Judges of the Court of Common Pleas within and for the County of Huron and State of Ohio; at a term of said Court begun and held at the Court House in Norwalk in said County and State on the 2nd day of September, A. D. 1930. Be it remembered that heretofore, to-wit: on the 26th day of October, A. D. 1927, plaintiff filed in the office of the Clerk of said Court, their petition for Injunction, which said petition is in the words and figures following, to-wit:

IN THE COURT OF COMMON PLEAS, HURON COUNTY, OHIO

12781

Ohio Electric Power Company

Plaintiff

vs.

Northern Ohio Telephone Company, The City of Norwalk, Ohio, Fred Higgins, A. C. Smith and Bert Webster

Defendants

PETITION

Plaintiff for its Petition herein says that it is a corporation duly organized and existing under the laws of The State of Ohio.

That the defendant, the Northern Ohio Telephone Company, is a corporation duly organized and existing under the laws of the State of Ohio.

Plaintiff further says that it is a public service corporation and distributing electric light and power to the citizens and industrial plants of the City of Norwalk, Ohio; that in the conduct of said business it has pole lines and overhead construction by way of wires and conduits on practically all the streets of the City of Norwalk, and especially on West Main Street and North and South Linwood Avenues in said City; that said plaintiff is the owner of said pole lines and the overhead construction consisting of wires and conduits attached to said poles.

Plaintiff further says that it has a legal right to operate upon the streets, public places and ways of the City of Norwalk, Ohio, and especially upon said West Main Street and North and South Linwood Avenues.

Plaintiff further says that said defendants without any right or authority so to do, are threatening to destroy and remove said poles and wires and overhead construction, as aforesaid, and is wrongfully removing and destroying the same upon West Main Street in said city.

Plaintiff further says that unless restrained, that said defendants will commit further destruction of Plaintiff's property, and that the destruction of said property and the removal of said poles and power lines will do great and irreparable injury to Plaintiff, for which it has no adequate remedy at law.

Plaintiff further says that the Judge of the Court of Common Pleas, of Huron County, Ohio, is absent from said Huron County.

Wherefore, plaintiff prays for a temporary injunction restraining said defendants and the employees of said defendants, The Northern Ohio Telephone Company and the City of Norwalk, Ohio, from removing, interfering with and destroying said poles and overhead construction light and power lines of said plaintiff in and upon and along the streets, public places and ways in the City of Norwalk, Ohio, and especially upon and along West Main Street and North and South Linwood Avenues in said City; that upon final hearing said injunction may be perpetual, and for such other relief as justice and equity require.

W. R. Pruner,
Attorney for Plaintiff,
Ohio Electric Power Company.

State of Ohio, Huron County, ss.

W. R. Pruner being first duly sworn, says that said plaintiff is a corporation; that he is the attorney for said plaintiff, duly authorized in the premises, and that the facts stated in the foregoing Petition are true.

W. R. Pruner.

Signed in my presence and sworn to before me this 26th day of October, 1927.

John R. Berry
Clerk of Courts

(Seal)

Norwalk, O. October 26/27. Temporary injunction allowed as prayed for in the foregoing petition. Bond in the sum of $1000.00 ordered. J. M. Bechtol Probate Judge.

Thereupon on the 26th day of October, A. D. 1927 the following Precipe was filed in the office of the Clerk of said Court, to-wit:

PRECIPE:

To the Clerk of said Court: Issue order of injunction and summons to all the defendants in the above case to the Sheriff of Huron Co. and make the same returnable according to law.

W. R. Pruner
Attorney for Plaintiff.

Thereupon on the 26th day of October, A. D. 1927 the following Summons was issued to the Sheriff of Huron County; to-wit:

SUMMONS:

The State of Ohio, Huron County. Common Pleas Court.

To the Sheriff of said County: You are hereby commanded to notify Northern Ohio Telephone Company, The City of Norwalk, Ohio, Fred Higgins, A. C. Smith and Bert Webster that they have been sued by Ohio Electric Power Company in the Court of Common Pleas of said Huron County, and must answer by the 26th day of November, A. D. 1927, or the petition of said plaintiff will be taken as true, and judgment rendered accordingly. Said Sheriff will make due return of this summons on the 7th day of November, 1927. Witness my

hand and the seal of said Court, this 26th day of October, 1929.

John R. Berry, Clerk
(Seal) By Florence B. Stratton, Deputy.

Endorsements: Summons returnable Nov. 7th, 1927. In action for Injunction. Temporary order of injunction allowed as prayed for in the petition. Bond required in the sum of $1000.00.

J. M. Bechtol
Attest: Probate Judge
John R. Berry
By Florence Stratton, Deputy

Thereupon on the 27th day of October, A. D. 1927 the foregoing Summons was returned by said Sheriff endorsed as follows, to-wit:

Sheriff's Return: The State of Ohio, Huron County. Received this writ October 26, 1927, at 10:30 o'clock A.M. And on October 26, 1927, I served the within named Fred Higgins, A. C. Smith and Bert Webster by personally handing to each of them a true and certified copy thereof with all the endorsements thereon. And on the 26th day of October, 1927, I served the within named The City of Norwalk, Ohio, by handing a true and certified copy thereof with all the endorsements thereon to A. C. Smith, Mayor of said City of Norwalk, Ohio. And on the 26th day of October, 1927, I served the within named Northern Ohio Telephone Company by handing a true and certified copy of this writ with all the endorsements thereon to H. C. Johnson, local manager for said Northern Ohio Telephone Company, there being no president, secretary or other chief officer of said Northern Ohio Telephone Company found within my County.

C. D. Trimner, Sheriff.
By Dolcie Bogart, Deputy.

Thereupon on the 26th day of October, 1927 the following Order of Injunction was issued to the Sheriff of Huron County, to-wit:

Order of Injunction: The State of Ohio, Huron County, ss. Court of Common Pleas, Huron County, Ohio. No. 12781. Ohio Electric Power Company, Plaintiff vs. Northern Ohio Telephone Company, The City of Norwalk, Ohio, Fred Higgins, A. C. Smith and Bert Webster, Defendants. To said Defendants, Northern Ohio Telephone Company, The City of Norwalk, Ohio, Fred Higgins, A. C. Smith and Bert Webster. You are

hereby enjoined from removing, interfering with and destroying poles and overhead construction light and power lines of plaintiff in and upon and along the streets, public places and ways in the City of Norwalk, Ohio, and especially upon and along West Main Street and North and South Linwood Avenues in said City until the further order of the Court. Witness my signature and the seal of said Court at Norwalk, Ohio, this 26th day of October, 1927.

(Seal) John R. Berry, Clerk.

Thereupon on the 27th day of October, A. D. 1927 the foregoing Order of Injunction was returned by said Sheriff endorsed as follows, to-wit:

Sheriff's Return: The State of Ohio, Huron County, ss. Received this writ October 26th, 1927, at 10:30 o'clock A.M., and pursuant to its command, I served the within named Northern Ohio Telephone Company, on the 26th day of October, 1927, at the hour of 12:45 o'clock P.M., by handing a true and certified copy of this writ with all the endorsements thereon to H. C. Johnson, local manager for said Northern Ohio Telephone Company there being no president or other chief officer of said Northern Ohio Telephone Company found within my county. And on the 26th day of October, 1927, at the hour of 12:30 o'clock P.M., I served the within named City of Norwalk, Ohio, by handing a true and certified copy of this writ with all the endorsements thereon to A. C. Smith, Mayor of said City of Norwalk, Ohio. And on the 26th day of October, 1927, at the hour 12:30 o'clock P.M., I served this writ by handing to the within named A. C. Smith personally a true and certified copy thereof with all the endorsements thereon. And on the 26th day of October, 1927, at the hour of 12:30 o'clock P.M., I served this writ by handing to the within named Bert Webster personally a true and certified copy thereof with all the endorsements thereon. And on the 26th day of October, 1927, at the hour of 12:50 o'clock P. M., I served this writ by handing to the within named Fred Higgins personally a true and certified copy thereof with all the endorsements thereon.

C. D. Trimner, Sheriff
By Dolcie Bogart, Deputy.

Thereupon at the September 1927 Term of Court, to-wit: October 26th, 1927.

Journal Entry: This cause came on to be heard before me, the undersigned, on the application of the plain-

tiff for a temporary injunction; whereupon for cause shown to my satisfaction, the following order was made by me: Oct. 26, 1927. Temporary Injunction allowed as prayed for in the foregoing petition. Bond in the sum of $1000.00, ordered.

J. M. Bechtol,
Probate Judge.

Thereupon at the January 1928 Term of Court, to-wit: March 24th, 1928.

Journal Entry: Upon application, leave is granted to Defendants, The City of Norwalk, Fred Higgins, A. C. Smith and Bert Webster, to file answers herein by April 7th, 1928.

Thereupon on the 7th day of April, A. D. 1928 the following joint answer of the City of Norwalk, Ohio, A. C. Smith and Bert Webster was filed in the office of the Clerk of said Court, to-wit:

Joint Answer: In the Common Pleas Court of Huron County, Ohio. Case No. 12781. Ohio Electric Power Company, Plaintiff, vs. Northern Ohio Telephone Company, the City of Norwalk, Ohio, Fred Higgins, A. C. Smith and Bert Webster. Now come the defendants, the City of Norwalk, Ohio, a municipal corporation organized under the laws of the State of Ohio, A. C. Smith and Bert Webster, and for their answer to the petition of the plaintiff say:

That they admit that plaintiff is a corporation organized under the laws of the State of Ohio; admit that the defendant, Northern Ohio Telephone Company, is a corporation organized under the laws of the State of Ohio; admit that plaintiff is a distributor of electricity for light and power purposes in said City of Norwalk; admit that it has and uses certain pole lines and overhead construction in the streets of said City of Norwalk and on West Main Street and North and South Linwood Avenues in said City; admit that plaintiff is the owner of some of said pole lines and certain overhead construction consisting of wires; and admit that at the time of the commencement of this action the Judge of this Court was temporarily absent from said Huron County.

Further answering said petition, these answering defendants deny each and every allegation, averment and statement in the petition contained.

Charles Suhr
City Solicitor.

Verification: The State of Ohio, Huron County, ss. F. G. Warner, being first duly sworn, says that he is the duly elected and qualified Auditor of the City of Norwalk, one of the defendants in the above entitled action; and that the facts stated in the foregoing answer are true, as he believes.

F. G. Warner.

Sworn to before me, and subscribed in my presence, on this 7th day of April, 1928.

Charles Suhr,
Notary Public, Huron County, Ohio

PLAINTIFF'S EXHIBIT No. 51

CITY OF NORWALK, OHIO
Department of Electricity and Water

May 14, 1925.

The Ohio Electric Power Co., Norwalk, Ohio.
Gentlemen:

There is an ordinance in existence on the ordinance book of the City of Norwalk covering the extension of Electric Light or power lines within the city, which prohibits the construction of any new lines or the extension of any existing lines without a permit being given by the Director of Public Safety. This ordinance also carries a penalty for the violation of this ordinance which is, That the lines in question shall be disconnected and removed from the public property within thirty days from a notice given by the Director to the offending party.

I am authorized by the Director of Public Safety and Service to notify you by this letter that you are to remove the wires which you have extended from Olive Street on Benedict Ave to the property marked as #196 Benedict Ave within the specified time of thirty days from date.

Also you are hereby notified to remove the wires which you have constructed on East Main St. from the transformer on the north side of East Main St in front of #170 across the street and one span East to the New house not numbered, within the period of thirty days from date, this ordinance authorizes the city to remove all wiring etc after that date.

Very truly yours
City of Norwalk
Mc G. Irvin, Sup't.

PLAINTIFF'S EXHIBIT No. 52

CITY OF NORWALK, OHIO
Department of Public Service

June 18, 1925.

The Ohio Electric Power Co., Norwalk, Ohio.

Dear Sirs:

You will take notice that your Company have or caused to be erected a service line from a point on East Main Street between Wooster Street and Milan Avenue, extending north on Wooster and Monroe, diagonally, thence diagonally from Monroe to the junction of Milan Avenue and Marshall Street in City of Norwalk, Ohio.

This line is a duplicate of and parallels a service line that had been previously erected which is now and has been in use prior to the erection of your line.

This line is clearly in violation of Section 9 of the Wire Ordinance of the City of Norwalk, Ohio.

You are hereby requested to remove said line within thirty days from the date of this notice or the same will be removed by the city as provided by Section 10 of said Wire Ordinance.

Yours truly,
W. P. Leighton,
Director of Public Service & Safety.

WPL:J

PLAINTIFF'S EXHIBIT No. 53

CITY OF NORWALK, OHIO
Department of Electricity and Water

June 29, 1925.

The Ohio Electric Power Co., Norwalk, Ohio.

Gentlemen:

The Director of Public Service and Safety has instructed me to issue the following orders:

The removal within thirty days of the wires constructed on Benedict Ave. from Olive Street south to the residence known as #196. Also the wires on East Main Street extending from the transformer on the North side of the street in front of #170 crossing the street and extending one span east to the property known as #176 East Main street.

You have a three phase 2200 volt line on North West Street from West Main St. north to Jefferson St. and thence on Jefferson St. to Wheeling Ave. As you have no three phase customers on this line, it therefore is a vacant three phase line and comes under the provisions on Section #8 the last paragraph, and Sections #9 and 10 of the Ordinance passed July 1st, 1924.

Also the same condition exists on Benedict Ave. from the point at Norwood Ave. south to Olive Street; you are hereby ordered to remove from the street the Three Phase line known as a primary or 2200 volt line on Benedict Ave. south to Olive Street.

This order is effective at once, the above lines having been condemned June 29th, 1925. And will be removed July 29th, 1925.

Yours truly
City of Norwalk,
M. G. Irvin, Sup't.

PLAINTIFF'S EXHIBIT No. 54

CITY OF NORWALK, OHIO
Department of Electricity and Water

July 31, 1925.

The Ohio Electric Power Co., Norwalk, Ohio.
Gentlemen:

The Director of Public Service and Safety has condemned the cable which supplies the Telephone building on Hester St. in accordance with the ordinance passed July 1st, 1925, the last paragraph of Section #9 provides that "Any extension or construction of electric light or power lines for supply or secondary lines, shall be approved by the Director of Public Service before electricity can be turned on, and a permit shall have been applied for and received before work on same is started."

The penalty provides that the city will remove the same after thirty days from the date of this notice.

This refers to the underground extension which was made by your company, extending from the South side of Seminary St. across the street and north on Hester street to the basement of the Telephone Company.

Very truly yours
City of Norwalk
M. G. Irvin, Supt. of Electric Dept.

PLAINTIFF'S EXHIBIT No. 55

CITY OF NORWALK, OHIO
Department of Electricity and Water

September 23, 1925.

Ohio Electric Power Co., Norwalk, Ohio.
Gentlemen:

The Director of Public Service and Safety has ordered me to disconnect and remove the cables and conduits recently constructed by your company on Hester

Street. This was in violation of an ordinance passed by the City Council July 1, 1924, and of which you had notice of condemnation July 31, 1925.

This is for your information and the protection of your customers. This department will get to this work within the next few days.

Very truly yours,
City of Norwalk,
M. G. Irvin, Sup't.

MGI/RB

PLAINTIFF'S EXHIBIT No. 56

CITY OF NORWALK, OHIO
Department of Electricity and Water
September 28, 1925.

Mr. D. E. Turkle
Ohio Electric Power Co.
Norwalk, Ohio
Dear Sir:

In regard to the conduit and cable matter on Hester Street, I took this matter up with our Service Director and notified him that you would disconnect your cable and wish permission to leave it under the street. He, no doubt, will take this up with you within a short while, as he stated he would want to go into it further to see whether it would be in accordance with the ordinance or not.

Yours very truly,
City of Norwalk,
M. G. Irvin, Sup't.

MGI/RB

PLAINTIFF'S EXHIBIT No. 57

CITY OF NORWALK, OHIO
Department of Electricity and Water

October 14, 1925.

Ohio Electric Power Co., Norwalk, Ohio.

Gentlemen:

The Director of Public Service and Safety has condemned the following wires in accordance with the ordinance passed July 1, 1925, and has authorized the writer to order the same removed within thirty days as provided in Section 9 of the above ordinance. This order covers the removal of a three-phase line commencing at North Linwood and Water Street, thence east on Water to Prospect and north on Prospect to League. (There being no three-phase customers on this line.)

The secondary wires on Cline Street from front of 11 Cline, north to Union Street.

Secondary wires on East Elm Street from #27 east to the transformers located in front of number 50.

Secondary wires on Benedict Avenue from Elm Street south to number 133 including a transformer connected to same.

On West Elm Street, one wire of the three wire secondary from Norwood west to Maple Street.

The penalty on this ordinance provides that the above wires are to be removed within thirty days from the date of this notice or the same be taken down by the city, and the material sold to cover the cost of this removal.

Very truly yours,
City of Norwalk,
M. G. Irvin, Sup't.

MGI/RB

PLAINTIFF'S EXHIBIT No. 58

CITY OF NORWALK, OHIO
Department of Electricity and Water

October 22, 1925.

Ohio Electric Power Co., Norwalk, Ohio.

Gentlemen:

The Director of Service and Safety has condemned the secondary wires from South Garden Street and Pine Street to East Main on the first pole south of East Main, and has authorized the writer to order the same removed within thirty days as provided in the ordinance passed July 1, 1924, covering vacant lines.

He also has instructed the writer to remove the cables and conduit under Hester Street which you disconnected and referred to in a letter of a few days ago. He states that the fact that you have disconnected these does not satisfy the provision of the ordinance covering permission for extension of lines on city property.

For your information I would suggest that you get a permit from the Service Director allowing you to open the street and remove this conduit.

Very truly yours,
City of Norwalk,
M. G. Irvin, Sup't.

MGI/RB

PLAINTIFF'S EXHIBIT No. 59

CITY OF NORWALK, OHIO
Department of Electricity and Water

October 31, 1925.

Ohio Electric Power Co., Norwalk, Ohio.
Gentlemen:

The Director of Service and Safety has condemned the secondary wires on Grove Avenue, now vacant, and has authorized the writer to order the same removed within thirty days as provided in the ordinance passed July 1, 1924.

Very truly yours,
City of Norwalk,
M. G. Irvin, Sup't.

MGI/RB

PLAINTIFF'S EXHIBIT No. 60

CITY OF NORWALK, OHIO
Department of Public Service

November 19, 1925.

Ohio Electric Power Co., Norwalk, Ohio.
Attention Mr. D. E. Turkle, Manager.
Dear Mr. Turkle:

Referring to your favor under date of 12th, relative to conditions in connection with the abandoned lines or lines out of service which your company has on certain streets, also referring to the last paragraph relative to a third wire of the secondary line on Elm Street from Norwood to Maple, would advise that so far as the city is concerned it will not be necessary to change any conditions in connection with that line at the present time. We note that this line has been put in a fairly safe condition which will be satisfactory to us.

Very truly yours,
City of Norwalk,
W. P. Leighton,
Director of Public Service.

WPL/RB

PLAINTIFF'S EXHIBIT No. 61

CITY OF NORWALK, OHIO
Department of Electricity and Water

August 12, 1926.

The Ohio Electric Power Co., Norwalk, Ohio.

Gentlemen:

The Director of Public Service and Safety has instructed me to issue the following order owing to the vacating of sections of lines as listed below:

One span of secondary wire from Whittlesey Ave. and Railroad St. across Whittlesey Ave.

Two spans of secondary wire on Franklin St. from Wooster to Foster.

One span of secondary from #98 Prospect to #103 Prospect.

Secondary wires on Milan from Harkness to #69.

One span on W. Washington from #44, west.

All wires on Rose Ave. from Whittlesey to the end.

One wire from the corner of E. Main and Old State Rd. north to the Armstrong residence.

Two wires secondary on N. Linwood from #40 south.

One span from #10 Mill St. to junction with the next secondary service.

On State St. from W. Main to #13.

One wire of the three-wire service on E. Main from #117 west to transformer.

One pole and wires erected to serve #15 Hickory. This is on private property and without the owner's consent.

This order is in accordance with an ordinance passed by Norwalk City council July 1, 1925. Penalty for disobeyance of which provides that these wires will be removed by the city at the expiration of thirty days from date of this notice.

Very truly yours,
City of Norwalk,
M. G. Irvin, Supt.

MGI:RB

PLAINTIFF'S EXHIBIT No. 62

CITY OF NORWALK, OHIO
Department of Electricity and Water
(Copy)

July 30, 1927.

The Local Telephone Co., Norwalk, Ohio.
Attention: Mr. J. O. Campbell.

Genltemen:

The Director of Public Service & Safety of City of Norwalk has authorized the issuance of an order to your company to remove twenty-one (21) poles which you have abandoned and which have been condemned by the Director of Public Service. The poles are located on the south side of West Main Street from Church Street to the pole approximately two hundred (200) feet west of Pleasant Street upon which you now are still maintaining heavy cable diagonally across Main Street from the north side. This is in accordance with an ordinance passed by Council of City of Norwalk under date of July 1, 1924. The penalty for violation of this order is included in the same ordinance and is to the effect that the failure to comply with this order within thirty (30) days from this date, the order shall be carried out by the City under the direction of the Director of Public Service.

This order does not permit the selling of those poles as they now stand to any other utility nor individual with the intent of leaving them erected in the street as they now are, and cannot be construed by you as anything else but the removal of the poles from the street and that within thirty (30) days from date of this order. Any tenants or leases which you may have on that property cannot continue the use of the same after this period without permission from the Service Director.

Very truly yours,
City of Norwalk,
M. G. Irvin, Supt.
B. P. Webster, Director of Public Service.

MGI:RB

PLAINTIFF'S EXHIBIT No. 63

CITY OR NORWALK, OHIO
Department of Electricity and Water

August 16, 1927.

The Ohio Electric Power Co., Norwalk, Ohio.

Gentlemen:

The Director of Public Safety and Service has instructed that the following order be issued, in accordance with an ordinance passed by the council of Norwalk July 1st, 1924.

You are ordered to remove the wires and equipment which are not in use at this time, located on Woodlawn Ave. in the city limits, and extending east from the pole on the east side of the W. & L. E. tracks to the city limits.

Failure to comply with this order will cause the penalty to be inflicted, which is the removal by the city of all equipment coming under this order, if the same has not been done within thirty days after the date of this order.

Very truly yours,
City of Norwalk,
M. G. Irvin, Sup't.

PLAINTIFF'S EXHIBIT No. 64

CITY OF NORWALK, OHIO
Department of Public Service

September 22, 1927.

Ohio Electric Power Co., Norwalk, Ohio.
Attention: Mr. D. E. Trukle, Manager.

Gentlemen:

My attention, as Director of Public Service, of City of Norwalk, Ohio, has been called to the fact that the employees of your company are now engaged in removing certain poles or other supporting fixtures now or

formerly owned by the Local Telephone Company on East Main Street in the City of Norwalk.

You are hereby notified to discontinue the carrying out of said changes and replacements. This order not only applies to the work on East Main Street, but also to any work of like nature contemplated in said City of Norwalk, Ohio. Please acknowledge receipt of this order.

Very truly yours,
City of Norwalk,
B. P. Webster,
BPW:RB Director of Public Service & Safety.

PLAINTIFF'S EXHIBIT No. 65

Norwalk, Ohio, September 26, 1927.

Director of Public Service,
City of Norwalk, Ohio.
Dear Sir:

We acknowledge receipt of your letter of September 22nd, protesting repairs now being made upon our lines on East Main Street in the City of Norwalk, and protesting similar work in the City on other streets and public places.

This is to notify you that the changes contemplated and proposed to be made at this time, are the repairing and re-conditioning of the lines of the Company upon the streets and other public places of the City of Norwalk, Ohio.

Yours truly,
Ohio Electric Power Co.,
By.....

PLAINTIFF'S EXHIBIT No. 66

CITY OF NORWALK, OHIO
Department of Electricity and Water

October 6, 1927.

Ohio Electric Power Co., Norwalk, Ohio.
Gentlemen:

The Director of Public Service & Safety has authorized me to order the removal within thirty (30) days of a two-wire primary line starting at the Wheeling & L. E. R. Co. on Woodlawn Ave. with a transformer and secondary that formerly served the residence of Mr. Armstrong on Woodlawn Ave., back to house No. 156 Woodlawn Ave.

Also the secondary wires from #132 N. Hester St. to the corner of N. Hester and League St. thence west on League to #23 W. League St.

Secondary wires on N. Prospect from the transformer at School House north to #98 Prospect St.

Also secondary wires on Franklin St. from the corner of Franklin and Whittlesey Ave. One span east and the service wires to the rear of the brick building which faces Whittlesey Ave.

This is in accordance with an ordinance passed by the City Council July 1, 1924, and failure to comply with this order will cause the penalty to be inflicted which is the removal by the city of all equipment coming under this order if the same has not been done within thirty (30) days after date of this order.

Very truly yours,
City of Norwalk,
M. G. Irvin, Supt.

MGI:RB

PLAINTIFF'S EXHIBIT No. 67

CITY OF NORWALK, OHIO
Department of Public Service

Aug. 30, 1928.

The Ohio Electric Power Co., Norwalk, Ohio.

Gentlemen:

The City of Norwalk has awarded the contract for the improvement of North Linwood Avenue between East Monroe Street and Railroad Ave., by paving with concrete, plans for same being on file at this office.

Whereas you have poles and equipment on the east side of said street in the way of this improvement, it will be necessary for you to move the same within ten days from date of this notice.

You are to assume all liability and expense incidental with the moving of the above pole lines and equipment and hold the City of Norwalk free from any and all expense occasioned by your failure to comply with this order.

Very truly yours,
City of Norwalk,
B. P. Webster,
Director of Public Service.

PLAINTIFF'S EXHIBIT No. 68

CITY OF NORWALK, OHIO
Department of Public Service

March 29, 1929.

To the Ohio Electric Power Co.

Our attention has been called to the fact that you are violating the City ordinance by building and extending your electric light lines and installing lights.

Will you kindly refrain from extending new lines and installing lights until the court gives you permission to extend said lines.

Dated this 29th day of March, 1929.

P. E. Weidemaier, Mayor.

PLAINTIFF'S EXHIBIT No. 69

April 20, 1929

Mr. Max G. Irvin, Supt.
City Light & Water Depts.,
Norwalk, Ohio
Dear Sir:

I wish to take this opportunity to call to your attention the condition existing on West Main Street where the 2300 volt primary lines belonging to the city and those belonging to the Ohio Electric Power Company, both of which are on the same poles, cross the Wheeling Lake Erie Railroad.

I notice that the railroad, telephone and telegraph crosses above our 2300 volt circuits. This is contrary to state law and we wish to eliminate the condition at once if at all possible.

We will be glad to cooperate with you in this matter, bearing one half of the expense which would be necessary.

Trusting that I may have an early reply on this subject, I remain

Sincerely yours,
L. L. Stahler

LLS:MEL
C/c J.N.H.

PLAINTIFF'S EXHIBIT No. 70

O.K. as to form—H. C. L., E. F. B.

COUNCIL RECORDS

Norwalk, Ohio, Feb. 4th, 1896.

The Council of the City of Norwalk, Ohio, met in regular session with the following members present: Bloxham, Jump, Kirkland, Lee, Moore, Prentiss, Somers.

Absent, Owen, O'Brien, Tuttle.

President Prentiss in the Chair.

* * * * *

(P. 425)

The following invitation was received from the Northern Electric Company, and on motion of Moore, seconded by Bloxham, was accepted for Friday evening, February 7th, 1896.

Honorable City Council, Norwalk, Ohio.

Gentlemen:

Having completed, and in operation our new lighting plant, an inspection of same by your Honorable Body is invited.

Very truly,

The Northern Electric Company,

B. P. Foster, Secy. & Treas.

Norwalk, Ohio, Feb. 4th, 1896.

* * * * *

(P. 431)

On motion of Bloxham, seconded by Moore, the Council adjourned.

A. S. Prentiss,

President of the Council.

Attest: F. W. Christian, City Clerk.

PLAINTIFF'S EXHIBIT No. 71

IN THE DISTRICT COURT OF THE UNITED STATES FOR THE NORTHERN DISTRICT OF OHIO, WESTERN DIVISION

In Equity No. 1040

The Equitable Trust Company of New York,
Plaintiff,

vs.

City of Norwalk, Ohio,
Defendant.

STIPULATION

It is hereby agreed and stipulated by and between Counsel for the plaintiff and Counsel for the defendant in this case that on the 11th day of May, 1896, F. H. Jones and J. W. Foster, as assignees of The Incandescent Light and Power Company, and others, as appellants, filed in the Court of Common Pleas of Huron County, Ohio, the original papers, pleadings and journal entries duly certified of a certain action theretofore commenced in the Probate Court of Huron County, Ohio, wherein said J. W. Foster and F. H. Jones, as assignees, were plaintiffs and The Norwalk Foundry & Machine Company, et al., were defendants, which action had been appealed to said Court of Common Pleas; that the original petition, certified from said Probate Court to said Court of Common Pleas on appeal, alleged the appointment and qualification of said Foster and Jones, as said assignees; and that among the assets of the assignment of the property of The Incandescent Light & Power Company to said assignee was

"an electric lighting plant, consisting of a leasehold estate for the period of five years from the 22nd day of September, 1890, of the following described property: Situated in the County of Huron, City of Norwalk, and State of Ohio, and being forty feet off the east end of Lot No. 934, situated on the south-east corner of Benedict Avenue and Seminary Street in said City, with privilege of drive on east end of said lot No. 934, together with all buildings thereon, boilers, engines, dynamos, street wires, poles, lamps and all appliances and articles of every kind and description used in and about the business of furnishing arc and incandescent lighting,

and all franchises, patronage, good-will and rights of said business."

That said petition further alleged that The Norwalk Foundry & Machine Company, The Bodifield Belting Company and D. H. Fox, Trustee, had or claimed to have liens on said property, or some part of it, to secure a claimed indebtedness to them respectively by the said The Incandescent Light & Power Company; and that the prayer of said petition was, in substance, that said assignees be ordered to sell said property free from the liens of the defendants, that said liens be considered, and their respective priorities determined and their payment ordered out of the proceeds of the sale of said property.

That by leave of court, one W. R. Huntington filed in said action his answer and cross-petition alleging the existence of a mechanic's lien upon said property; and that the certain claim and lien of said The Bodifield Belting Company had been duly assigned to said Huntington.

That prior to said appeal, to-wit: April 24, 1893, said Probate Court, by its decree, ordered said assignees to sell at public sale said property, described as follows:

"An Electric-Light Plant, consisting of a leasehold estate for the period of five years from the 22" day of September, 1890, of the following described property: Situated in the County of Huron, City of Norwalk, and State of Ohio, and being forty feet off the east end of lot No. 934; Situated on the southeast corner of Benedict Avenue and Seminary Street in said City, with privilege of drive on east end of said lot No. 934, together with all buildings thereon, boilers, engines, dynamos, street wires, poles, lamps, and all appliances and articles of every kind and description used in about the business of furnishing arc and incandescent lighting and heat, and all franchises, patronage, good-will, and rights of said business."

That prior to the perfection of said appeal, to-wit: May 10, 1893, said D. H. Fox, trustee, filed in said Probate Court, in said action, his separate answer wherein, among other things, he alleged that on or about June 1, 1892, said The Incandescent Light & Power Company by the action of its stockholders and board of directors, taken in conformity with law, had authorized the execution and delivery to a trustee of its bonds in the sum of $20,000.00, payable five years after date, with interest, and that said bonds be sold and the proceeds be applied to the payment of a promissory note of said The Incandescent Light & Power Company secured by the personal

endorsement of its stockholders and, also, all other indebtedness; and that, to secure the payment of said bonds and interest accruing thereon, there should be executed and delivered to said trustee the mortgage deed of said The Incandescent Light & Power Company conveying to said trustee all the property of said The Incandescent Light & Power Company, both real and personal

"including its leasehold interest, buildings thereon, machinery, electrical appliances, and apparatus, its arc and incandescent street and commercial lines and all its privileges, rights and franchises."

That said D. H. Fox, Trustee, further alleged in his said separate answer that on or about June 1, 1892, in compliance with the action of its stockholders and board of directors, said The Incandescent Light & Power Company, by D. W. Vail, its President, and Charles Suhr, its Secretary, executed and delivered to said D. H. Fox, Trustee, forty bonds of said Company of $500.00 each, each bond bearing ten interest coupons and said bonds being payable to D. H. Fox, Trustee, or bearer, a full description of each bond and the coupons thereon being set forth in the answer of said D. H. Fox, Trustee; and that, to secure the payment of said bonds and interest coupons, said The Incandescent Light & Power Company, simultaneously with the delivery of said bonds to said Trustee, duly executed and delivered unto said Trustee its mortgage deed, describing the following property, to-wit:

"Situated in the City of Norwalk, County of Huron, and State of Ohio, and being forty feet off the east end of Lot No. Nine hundred and thirty-four (934) situate on the south-east corner of Benedict Avenue and Seminary St.; said leasehold interest being a five year lease from Sept. 22nd, 1890, with a renewal of five years if not sold, together with all its buildings thereon, its machinery, electrical appliances and apparatus, its arc and incandescent street and commercial lines, and all its privileges, rights and franchises."

That, in his separate answer, said D. H. Fox, Trustee, further alleged that said mortgage deed was conditioned that if said The Incandescent Light & Power Company should well and truly pay said bonds and coupons according to the tenor thereof, and keep, observe and perform the other covenants and obligations of said mortgage deed, then the same should be null and void, but otherwise to remain in full force and virtue; that said D. H. Fox, in writing, on said mortgage deed, ac-

cepted the office of such Trustee; that on June 16, 1892, at 3:30 o'clock P.M., said mortgage deed was duly left for record at the office of the County Recorder of said Huron County and was thereafter duly recorded in Volume 35, page 602, of the Mortgage Records of said County; that prior to the first day of December, 1892, said Trustee had sold all of said bonds and applied the proceeds thereof, as authorized by the stockholders and board of directors of said The Incandescent Light and Power Company; and that said bonds were owned and held by divers individuals and corporations, and that none of them, either bonds or coupons, had been paid.

That said D. H. Fox, Trustee, in said action prayed for the sale of said property of The Incandescent Light & Power Company and for the application of such amount from the proceeds of such sale as would fully pay and satisfy the amount owing on said bonds and coupons.

That the record of said action commenced in said Probate Court and appealed to said Court of Common Pleas shows that on the first day of June, 1893, said F. H. Jones and J. W. Foster, Assignees, returned said order of sale to said Probate Court, pursuant to the order of said Court to return the same, without offering said property for sale and without further proceedings under said order.

That various answers and cross-petitions were filed in said action in said Probate Court by creditors and alleged lienholders of said The Incandescent Light & Power Company.

That in said action in said Probate Court, said F. H. Jones and J. W. Foster, Assignees, filed their reply to the answer of D. H. Fox, Trustee, traversing said answer and raising an issue as to the validity of said bonds and mortgage.

That on the 24th day of January, 1895, said Assignees filed their application in said Probate Court for an alias order of sale of the property of said The Incandescent Light & Power Company, and on said last named date an alias order of sale was issued by said Probate Court to said Assignees commanding them to proceed according to law to sell at public sale the said property described, to-wit:

"An electric light plant, consisting of a leasehold estate for the period of five years from the 22nd day of September, 1890, of the following described property: Situated in the County of Huron, City of Norwalk and State of Ohio, and being forty feet off the east end of

Lot No. 934, situated on the southeast corner of Benedict Avenue and Seminary Street in said City, with privilege of drive on East end of said lot No. 934, together with all buildings thereon, boilers, engines, dynamos, street wires, poles, lamps and all appliances and articles of every kind and description used in and about the business of furnishing arc and incandescent lighting and heat, and all franchises, patronage, good-will and rights of said business."

That notice of said sale advertised to take place March 1, 1895, with proof of publication of said notice, was filed in said action in said Probate Court February 26, 1895; and that on the 11th day of March, 1895, said Assignees in said action in said Probate Court filed their return of said order of sale showing that the property, above described, including

"all franchises, patronage, good-will and rights of said business"

of The Incandescent Light & Power Company, was sold March 1, 1895, to George P. Jones and Mayme C. Foster for the sum of $13,000.00.

That on the third day of August, 1895, L. C. Laylin filed his answer and cross-petition in said action, then pending in said Probate Court therein, among other things, alleging that in May, 1894, said D. H. Fox died, whereby the office of Trustee, as set forth in his said separate answer, became vacant; that said L. C. Laylin was the duly appointed and qualified successor of said Fox as said Trustee; and that said Laylin, as Trustee, adopted and affirmed for his own in said action the answer of said D. H. Fox, as Trustee, and denied the averments contained in the reply to the separate answer of D. H. Fox, Trustee, affecting the validity of said bonds and mortgage.

That said action in said Probate Court came on for hearing on the first day of February, 1896, and was submitted to the Court, and on the 13th day of April, 1896, said Probate Court made a finding in favor of said W. R. Huntington on his mechanic's lien for the sum of $760.91 and found said mechanic's lien to be the first and best lien on the said property of The Incandescent Light & Power Company; that D. H. Fox, Trustee of the bondholders of said Company, held a valid second lien on said property for the sum of $20,000.00; and that other lienholders held junior liens thereon, and the Court ordered paid from the proceeds of the sale of said property said liens in the order of their priority, so far as said proceeds would reach.

That, after the taking and perfection of said appeal, said action came on for hearing in said Court of Common Pleas, and on the 27th day of April, 1897, said last named Court entered its finding and decree in effect and substance that said W. R. Huntington held the first and best lien on said property of The Incandescent Light & Power Company; that said D. H. Fox, Trustee of the bondholders of The Incandescent Light & Power Company, was deceased, and Lewis C. Laylin, his successor, held the second lien for the sum of $20,000.00 on said property; and thereupon said Court of Common Pleas entered its decree ordering the distribution of the proceeds of said sale according to said findings.

Earl F. Boxell,
Of Counsel for Plaintiff.
W. A. Eversman,
Counsel for Defendant.

PLAINTIFF'S EXHIBIT No. 76

FAUVER & CHENEY
Attorneys at Law, Elyria, Ohio

February 4, 1925

Seibert & Riggs,
2 Rector St.,
New York City
Gentlemen:

We have your letter of February 2nd relating to our opinion as to title of property recently purchased by Victor Emanuel from the Railway Company, and it is quite possible that the phraseology of our letter can be changed so as to meet the conditions of the mortgage requirements; however, back of the entire situation is the fact that we have no legal title to certain parts of the right-of-way we are now enjoying. As stated in our

opinion, we have a full right to occupy this right-of-way without any possibility of ejectment, but may be forced to appropriate it upon the application of the owners of the property at some time in the future. In that event, the value which a jury would probably give would be a nominal one.

Relating to the lease which has expired, we do not understand that this property is at all essential in connection with the operation of the plant, altho it has been used to some extent. If deemed advisable, reference in the opinion to this lease might be entirely eliminated.

While we enjoy no franchise from the City of Norwalk, still under the law in Ohio we have the full right to continue our operations in the same manner, and to the same extent as our predecessors have operated.

It rather seems as though we should be able to furnish an opinion to the Trustee which would substantially cover the requirements of the mortgage provision and still conform to the facts. It hardly seems as though the Trustee would raise any question with reference to any of these matters. We presume this opinion will be desired at the time the bonds are to be taken down.

In the meantime, we suggest that you prepare the kind of an opinion which you think would be sufficient, and which, under the circumstances, we should be able to sign, with due reference to the facts and the law, and forward it to us; or, in the event you prefer, we will redraft the opinion previously rendered. We presume this opinion should be addressed to the Trust Company, who will act as Trustee under the Bond issue.

Very truly yours,

Fauver & Cheney.

PLAINTIFF'S EXHIBIT No. 77
(Copy)

September 29th, 1917

Frank H. Ginn, Esq.,
Twelfth Floor, Williamson Bldg.,
Cleveland, Ohio.
Dear Mr. Ginn:

A long time ago, as you will remember, you asked me to carefully make a search of the City Council Records of the City of Norwalk, with reference to the franchise rights granted to such electric light companies as were predecessors in business of The Cleveland, Southwestern and Columbus Railway Company.

In my last conference with you, it seemed as if the investigation you requested would be an easy task, but I have found it quite difficult, in that the first electric light contracts, which the City of Norwalk made, were away back in the eighties, and more than that, the municipal officers failed to keep any index to the Council Journals, and the result was that I went over these records page by page, commencing with the first electric light contract and coming down to and including the contract, which was made with The Northern Electric Company, later known as The Northern Electric & Gas Company, which sold, as I understand, all of its property, interests and franchises to The Cleveland and Southwestern Railway Company, before it changed its name to The Cleveland Southwestern & Columbus Railway Company.

So that you may have a complete record of the proceedings of the City Council, I have had my stenographer copy everything from the records germane to the lighting situation, during the period above mentioned.

Also, I have carefully examined all of the ordinance books, covering the same period, and everything done by the Council, in the matter of electric lighting, commencing with September 7, 1886, and ending with July 16, 1895, which is of record, appears in the transcript of council proceedings which I am submitting to you herewith, covering forty-six pages.

Inasmuch as you will not want to spend your time in reading this entire transcript, I have indicated the most important steps taken by the Council by making red stars in the margin of the transcript.

The records show that prior to October, 1886, the streets of the City of Norwalk, were lighted with gaso-

line and gas lamps. Page 2 of the transcript shows that on October 2, 1886, a certain proposition of Western Electric Company of Chicago to furnish street lighting was accepted, and that a contract therefor, to commence on the 31st day of December, 1886, was entered into.

Neither in the Council journals, nor in the ordinance books, is there any record of the passage of any ordinance, relative to the granting of any franchise to Western Electric Company for any kind of electric lighting or service. The contract for street lighting entered into with Western Electric Company and dated October 19, 1886, as shown by pages 2 and 3 of the transcript, appears to have been authorized by the passage of a resolution only.

I find nothing of record indicating that Western Electric Company was engaged in incandescent lighting. Page 3 of the transcript shows on November 6, 1886, a written resolution was submitted to the Council for passage by a representative of Western Electric Company substituting the name "Norwalk Light & Power Company" for Western Electric Company. You will note that the same page shows that on November 17, 1886, the committee to which such resolution was submitted reported against its adoption.

It had been my understanding that the City of Norwalk, at one time, had a contract with Norwalk Light & Power Company, but I have been advised by Mr. Charles Suhr, a lawyer of this city, who was one of the incorporators and an officer of The Incandescent Light & Power Company of Norwalk, hereinafter referred to, that Norwalk Light & Power Company was the name given by Western Electric Company of Chicago to the persons interested in the management and operation of the local plant of Western Electric Company, in the carrying out of the contract of Western Electric Company for city street lighting.

I find nothing in the council records or ordinance books to show that the City of Norwalk ever had any lighting contract or arrangement with, or ever granted any franchise to, Norwalk Light & Power Company.

Mr. Suhr advises me that the parties doing business as The Norwalk Light & Power Company, in Norwalk, carried out the contract for city lighting made with Western Electric Company, as above stated. Mr. Suhr further advises me that he does not think that Western Electric Company ever furnished any incandescent lighting for the City of Norwalk. By referring to page 5 of the transcript, you will find that Western Electric Com-

pany, on June 30, 1887, submitted to the City Council a written proposition to sell to the City
"the plant complete, including all of the apparatus used for street and commercial lighting, building, &c. in fact the entire outfit as it now stands, for the sum of $27,-000.00."

Mr. Suhr advises me that the "plant" referred to was the one, which had previously been used by Norwalk Light & Power Company, and he further says that he does not remember whether Norwalk Light & Power Company was engaged in commercial lighting. The language contained in the proposition of Western Electric Company in its offer to sell the plant would indicate that it was engaged in "commercial lighting."

At pages 6 and 7 appears an ordinance granted to The Northwestern Ohio Natural Gas Company by the City of Norwalk, on July 23, 1889, and which only relates to the laying of gas pipes in the streets, alleys, etc., for the furnishing of natural gas. I think that no importance attaches to this ordinance, but I only put it in the transcript as I came to it, because of the fact that The Northern Gas & Electric Company, the grantor to The Cleveland and Southwestern Railway Company, became the grantee of certain rights of The Northwestern Ohio Natural Gas Company, which will be referred to later in this letter. Pages 9 and 10 show another and later ordinance granted to The Northwestern Ohio Natural Gas Company by the Council, on April 23, 1890, granting to that Company the right to lay, maintain and operate gas pipes in the City of Norwalk, for heating, power and fuel purposes. No importance need be attached to this ordinance.

Page 11 of the transcript shows the commencement of some agitation in July, 1890, for a new lighting arrangement for the city, and at the bottom of page 11, you will find that an ordinance was introduced in the City Council, on July 25, 1890, to grant certain privileges to "Norwalk Incandescent Light Company."

By referring to page 12 of the transcript, you will find on July 30, 1890, said ordinance was read the third time, and then passed, the ordinance being given in full on page 13 of the transcript. Careful attention should be given to this ordinance, as it may figure very materially in the present situation. You will note that this ordinance apparently has something omitted from it, opposite the red ink line in the margin, thereby making the ordinance practically unintelligible. You will, also, note that this ordinance was granted to "Norwalk In-

candescent Light Company of Norwalk, Ohio, its successors and assigns." So far as I can ascertain, there was no corporation engaged in business under the style of "Norwalk Incandescent Light Company."

Enclosed, you will find a duly exemplified copy of the articles of incorporation granted to The Incandescent Light and Power Company, of Norwalk, Ohio, under date of March 7, 1891. Therefore, it is quite obvious that the ordinance on page 13 of the transcript, passed July 30, 1890, was not an ordinance passed for the benefit of The Incandescent Light and Power Company of Norwalk.

By referring to page 15 of the transcript, you will note that on October 7, 1890, the council of the City of Norwalk, passed an ordinance to amend the ordinance of July 30, 1890, and evidently to correct the mistakes made in the former ordinance, the latter ordinance being granted to "The Incandescent Lighting Company of Norwalk." I am unable to find that there was ever any Company engaged in business under the style of "The Incandescent Lighting Company."

You will, also, note that the two ordinances, set forth respectively on pages 13 and 15, granted franchises for a limited period of twenty years, notwithstanding the fact that, as decided by the Supreme Court in Hardin-Wyandot Light Company vs. Upper Sandusky, 93 O. S. 428, prior to the Act of 1896, now Sections 9192, 9193 and 9194, General Code, an electric light company could place electric wires for lighting, heating or power purposes in the streets of a municipality, without obtaining the consent of the municipality therefor.

I am unable to find in any of the council journals any acceptance in terms by any one of the said two ordinances of July 30, 1890, and October 7, 1890. This apparent mystery as to Incandescent Light Company of Norwalk and Incandescent Lighting Company of Norwalk becomes still more mysterious by a reference to page 16 of the transcript, showing that at a council meeting held November 5, 1890, a written proposition for lighting was submitted to the Council by The Electric Light and Power Company. Who constituted The Electric Light and Power Company does not appear.

In my conversation with some of the older residents of Norwalk, it appears that in those days when municipal electric lighting was just coming into vogue, different individuals conceived the idea of organizing a company or corporation to engage in electric lighting and the use of these various names may be explained upon

the theory that different individuals or collections of individuals assumed to act under these names for the purpose of obtaining a franchise from the city either for their own use or for speculative purposes, intending to sell the same to other parties.

You will, also, note that on page 16 of the transcript, there is an acceptance of the proposition of The Electric Light & Power Company, and you will, also, note by referring to page 17 that on December 16, 1890, there was a proposition submitted to the council by The Incandescent Light Company, and you will further note that as appears from Page 17 of the transcript, on May 5, 1891, just about two months after the Incandescent Light & Power Company was incorporated steps were taken by the city to advertise for bids for the lighting of the streets of Norwalk for five years commencing January 1st, 1892, and you will further note by referring to the bottom of page 18 of the transcript that on June 16, 1891, bids for lighting the streets with electric lights for a period of five years were received from Norwalk Light & Power Company, Norwalk Gas Light Company and Incandescent Light and Power Company.

I desire to say that The Norwalk Gas Light Company was an old corporation, which for many years manufactured gas in this city, and supplied it thru pipes laid in the streets for public and private use. The Norwalk Gas Light Company never engaged in any electric lighting business but it finally sold all of the rights that it had in the street for gas purposes to The Northern Electric Company, from which The Cleveland and Southwestern Railway Company obtained all rights owned formerly by the Gas Company. The sale by the Gas Company was made to Parks Foster in the first instance, and then by him to the Railway Company.

As stated above in this letter, The Norwalk Light and Power Company, so Mr. Suhr advises me, was simply a subsidiary of Western Electric Company of Chicago. By referring to page 21, you will note that another proposition was received by the City of Norwalk, on September 1st, 1891, for public lighting from The Norwalk Incandescent Light Company, and you will further note that none of the bids received for electric lighting prior thereto seemed to have been accepted, but that it was decided to advertise for contracts for street lighting the second time.

By referring to the bottom of page 24 and the top of page 25 of the transcript, you will note that on October 2, 1891, the council authorized the execution of a

contract between the City and The Incandescent Light and Power Company for the period of five years from and after December 31, 1891. I do not find any ordinance or authority of any kind granted by the City Council to The Incandescent Light and Power Company for the maintenance of any poles, wires or other fixtures in the streets of the City of Norwalk; but I am advised by Mr. Suhr, who was secretary of The Incandescent Light and Power Company, that about the time it was granted a contract for street lighting, it proceeded to erect poles and string wires and install the necessary equipment for incandescent lighting and for the purpose of supplying electricity for power purposes to private consumers, and that the poles, wires and equipment so erected and installed were the same poles, wires and equipment, which were subsequently purchased by Mrs. Foster and one George P. Jones and later turned over to The Northern Electric Company, when it commenced to do business in Norwalk, as is hereinafter shown.

Mr. Suhr further advises me that his recollection is that for some time—perhaps a year or so—after The Incandescent Light and Power Company commenced to light the streets under its contract with the city and to furnish electricity for commercial purposes, The Norwalk Light and Power Company acting under Western Electric Company used some of the poles, which had formerly belonged to and had been used by Western Electric Company, but that finally all of the public and commercial lighting was supplied by The Incandescent Light and Power Company.

Page 27 of the transcript shows that notice was given the council of the City of Norwalk on February 25, 1893, that The Incandescent Light and Power Company had made an assignment for the benefit of its creditors.

Page 28 of the transcript shows that the assignees of The Incandescent Light and Power Company indicated their willingness to continue to operate under the contact entered into between the city and The Incandescent Light and Power Company, and I am advised that the assignees under authority granted by the Probate Court, did carry out that contract until the property was sold by the assignees under the order of the Court.

Pages 30 and 31 of the transcript show that on October 15, 1894, an ordinance was granted to The Cooperative Construction and Supply Company, giving it the right for 25 years from the date thereof to maintain

its lines in the streets of the city for conducting electricity for power, heat and light.

This ordinance appears to have been accepted by The Co-operative Construction and Supply Co., on Nov. 20, 1894, as will be seen by referring to page 31 of the transcript. I am unable to ascertain who the parties were constituting The Co-operative Construction and Supply Co., save that its president was one William J. Bowen and its secretary was one William S. Bayley. These parties were non-residents and inasmuch as I was living in Norwalk at the time said last-named ordinance was passed, and have been here ever since, I am satisfied from my own knowledge, that The Co-operative Construction and Supply Co. never operated any lighting plant in the City of Norwalk, and I am very well satisfied that it never availed itself of any of its franchise rights in the way of operating under said ordinance.

Pages 32 and 33 of the transcript show that commencing in April, 1895, agitation was again started in the City Council, with reference to making another contract for municipal street lighting, and that one B. P. Foster, who afterwards was instrumental in organizing The Northern Electric Company was then making overtures to the City for a new lighting contract.

At a council meeting held on May 21, 1895, shown by page 33 of the transcript, two bids were received by the City for street lighting, one from The Northern Electric Company, and one from The Norwalk Light and Power Company, and the same page shows a report of a special committee appointed by the council, under date of June 4, 1895, recommending that the written proposition of The Northern Electric Company, dated June 4, 1895, be accepted, such proposition appearing on page 34 of the transcript.

Pages 36 and 37 show another proposition submitted by The Northern Electric Company, by B. P. Foster, Secretary.

Page 39 shows an ordinance passed on the second day of July, 1895, authorizing the making of a contract with The Northern Electric Company, for electric lighting for streets and public places of the city for a period of ten years commencing Sept. 1, 1895, but containing nothing relative to commercial or incandescent lighting.

Pages 39 and 40 show that said ordinance after it was originally passed was passed again after having been read on three different days.

Page 41 shows that a bond was filed by The Northern Electric Company, and pages 42 and 45 inclusive,

show the contract, which was entered into by and between the City of Norwalk, and The Northern Electric Company to cover street lighting only for the period of ten years.

Inasmuch as I understand that The Cleveland and Southwestern Railway Company (later The Cleveland, Southwestern and Columbus Railway Company) acquired from The Northern Electric Company, later known as The Northern Electric and Gas Company, all of its rights of every nature and kind in the City of Norwalk, I did not deem it necessary to search the records any further, but I call your attention to some matters of record, which I think I referred to in my letters written to you last spring, to-wit:

In a prior letter, I wrote you fully relative to a deed, which was executed by J. W. Foster and F. H. Jones, as assignees of The Incandescent Light and Power Company to George P. Jones and Mayme C. Foster, the latter being the wife of Burton P. Foster, which deed was recorded in Volume 51 of the Records of Deeds of Huron County, and at pages 319 and 320 therein. This deed, among other things, recites that J. W. Foster and F. H. Jones were duly appointed and qualified as assignees of The Incandescent Light and Power Company; that they filed their petition in the Probate Court of Huron County, on March 29, 1893, praying for an order of sale to sell the real estate and other property of said Company; that said order of sale was granted; and that after due advertisement said assignees sold said property to George P. Jones and Mayme C. Foster for $13,000.00, and that the said sale was confirmed.

I gave you in one of my former letters a copy of the description of the property, which included "all poles and wires belonging" to the plant with all other fixtures and appurtenances thereunto belonging.

There is no mention made of any franchise in the deed.

It will be noted that this deed was executed and delivered to George P. Jones and Mayme C. Foster before it was necessary for an electric light company to obtain the consent of the city council to erect its poles and string its wires in the streets. As stated in one of my former letters, the same property was transferred by the deed of George P. Jones and Mayme C. Foster to The Northern Electric Company on May 20th, 1895.

This is substantially all the matters of record that I have been able to find, after a most careful and diligent search covering the period above named.

After giving this matter considerable consideration and thought, I am still of the opinion that, inasmuch as The Incandescent Light and Power Company by the erection of its poles and wires in the streets of the City of Norwalk, aside from those used for public lighting, at a time when it was not necessary to obtain the consent of the municipal authorities, said Company acquired certain vested rights, which would pass as incidents and appurtenances in the deed executed by its assignees to George P. Jones and Mayme C. Foster, and that those vested rights have passed along down to the present owner, The Cleveland, Southwestern & Columbus Railway Company, unless it or its predecessors in title have done something whereby those rights have been divested.

Of course, the question is a very close one, and under all the circumstances of the present situation, a court might hold that The Cleveland, Southwestern & Columbus Railway Company has now no right to maintain its equipment in the streets and public places of Norwalk; but it seems to me that in view of the law, as it stood prior to 1896, and with a large number of customers, who are connected with, and are receiving light and power from, the plant of The Cleveland, Southwestern & Columbus Railway Company, a court would be slow to hold that such Company now has no vested rights in the City of Norwalk.

The question is a debatable one, and before any large amount of money is expended for improvement, which Mr. Frederici tells me are badly needed, it must be appreciated by the directors of the Company that the question is not free from doubt.

It does not seem to me that any court, in view of the law prior to 1896, and the large number of customers now receiving their supply of electricity from The Cleveland Southwestern and Columbus Railway Company would oust the Company from the use of the streets.

I think that the present municipal authorities have been banking somewhat upon the language contained in the contract made with The Cleveland and Southwestern Traction Company, on April 13, 1905, a copy of which you have, wherein in paragraph 14 thereof, there is a provision that after August 31, 1915, nothing shall prevent the city from revoking the contractors' rights to the use of said streets, alleys and other public places in the furnishing of

"street, commercial and residence lighting to the said city, and the residents and inhabitants thereof."

While the use of this language is unfortunate, inas-

much as the contract only covers street lighting, it does not seem to me that it is subject to such construction as would result in the removal of electrical equipment belonging to the contractor, and erected by it in the streets outside of, and independently of, said contract of August 13, 1905.

Anyhow, inasmuch as more than two years have elapsed since the expiration of that contract, I am strongly inclined to the opinion that the city has waived its right to act thereunder in the matter of ordering and effecting a removal of said equipment.

Of course, I am only giving you my opinion, and I appreciate that the question is more or less debatable.

L. Yours very truly,

PLAINTIFF'S EXHIBIT No. 78

OHIO ELECTRIC POWER COMPANY
First Mortgage Gold Bonds
Series "A" 6½% Sinking Fund

Dated July 1, 1924. Due July 1, 1944.

Interest payable January 1 and July 1. Coupon bonds in interchangeable denominations of $1,000, $500 and $100. $1,000 bonds registerable as to principal only. Redeemable at the option of the Company in whole or in part on any interest date on thirty days' notice, at 105 and interest. Interest payable at the option of the holder at New York or Chicago. Principal payable at the office of The Seaboard National Bank of The City of New York, Trustee.

Interest payable without deduction for normal Federal Income Tax not to exceed 2%.

Pennsylvania Four Mill Tax and Massachusetts 6% Income Tax refundable to holders resident in those states.

The issuance of these bonds has been authorized by the Ohio Public Utilities Commission.

The following information is summarized by Mr. Victor Emanuel, Vice-President, from his accompanying letter to us and from auditors' and appraisers' reports and other reliable sources:

Business: The Company supplies, without competition, electric light, power and gas in the city of Oberlin and electric light and power in the towns of Ravenna and Mantua, and in other territory adjacent to Ravenna, Ohio. The Company also serves, both at wholesale and retail, electric consumers in an extensive territory in Mercer, Auglaize, Shelby and Darke Counties, Ohio.

The territory served by the Company includes important agricultural and industrial districts in the north central and the west central portions of Ohio, and is provided with unusually good railroad and interurban transportation. Oberlin is the seat of the well-known Oberlin College, which has an enrollment of approximately 1,000 students.

Security: The First Mortgage Gold Bonds are secured by a direct first mortgage upon the entire fixed property of the Company, which, as appraised by independent public utility engineers and appraisers, is valued largely in excess of the total outstanding funded debt of the Company.

Earnings: Consolidated earnings of the properties now owned by the Ohio Electric Power Company have been as follows:

	Twelve months ended April 30, 1925
Gross Earnings	$380,886
Operating Expenses and Taxes (Including Current Maintenance and Taxes other than Federal Income Taxes)	272,310
Net Earnings	$108,576
Annual Interest on $949,000 First Mortgage 6½% Bonds (this issue)	61,685

Sinking Fund: On July 1, 1925, and on each July 1 thereafter to and including July 1, 1929, the Company covenants to pay to the Trustee as a Sinking Fund for the Series "A" Bonds, an amount equivalent to 1% of the greatest principal amount of the Series "A" Bonds outstanding at any time during the preceding twelve months; and on July 1, 1930, and on each July 1 there-

after to and including July 1, 1934, an amount equivalent to 1½% of such principal amount of Series "A" Bonds; and on July 1, 1935, and on each July 1 thereafter to and including July 1, 1939, an amount equivalent to 2% of such principal amount of Series "A" Bonds; and on July 1, 1940, and on each July 1 thereafter to maturity an amount equivalent to 2½% of such principal amount of Series "A" Bonds.

All monies in the Sinking Fund are to be used exclusively for the purchase or redemption of bonds of Series "A" at or below their redemption price, and all bonds so acquired are to be cancelled.

Management: The general operation of these properties will continue under the supervision of public utility operators whose successful and efficient management of important public utility companies has been demonstrated over a long period of years.

All legal details in connection with this issue have been passed upon and approved by Messrs. Pam & Hurd, Chicago, for the Bankers, and Messrs. Seibert & Riggs, New York, for the Company. The principal properties of the Company have been reported upon by Day & Zimmermann, Inc., Engineers, Philadelphia. The books and accounts of the Company are audited annually by Messrs. Arthur Young & Company, New York.

Price on Application

A. C. ALLYN and COMPANY
Established 1912
Investment Securities
67 West Monroe Street, Chicago
Telephone Randolph 6340
New York Philadelphia Boston Milwaukee Minneapolis

The statements herein made are not guaranteed but they are based upon reports and other information which we believe to be entirely reliable, and upon which we have acted in purchasing these securities for our own account.

OHIO ELECTRIC POWER COMPANY

New York City, N. Y., August 24, 1925.

Messrs. A. C. Allyn and Company, Chicago.

Gentlemen:

In connection with your purchase of Ohio Electric Power Company First Mortgage Gold Bonds, Series "A" 6½% Sinking Fund, I am pleased to submit the following information:

BUSINESS AND TERRITORY

The Ohio Electric Power Company supplies without competition electric light, power and gas in the City of Oberlin and electric light and power in the towns of Ravenna and Mantua, and in other territory adjacent to Ravenna, Ohio. The Company also serves both at wholesale and retail, electric consumers in an extensive territory in Mercer, Auglaize, Shelby and Darke Counties, Ohio, and also conducts a portion of the retail electric light and power business in the City of Norwalk, Ohio.

The territory served by the Company includes important agricultural and industrial districts located in the north central and west central portions of Ohio. At Oberlin is located the well-known Oberlin College, having an enrollment of approximately 1,000 students. Oberlin is also the center of a prosperous agricultural district, and is served by the New York Central and Lorain, Ashland & Southern Railroads and the Cleveland Southwestern Railway & Light Company. Ravenna is the County Seat of Portage County, and is important from an industrial and manufacturing standpoint, being served by the Pennsylvania, Baltimore & Ohio and Erie Railroads, and also by an electric interurban railway. Other communities served by the Company include Saint Mary's, New Bremen, Minster, Fort Recovery and Norwalk.

CAPITALIZATION
(Funded Debt and Stock Issued)

First Firstgage Gold Bonds, Series "A"	
6½% Sinking Fund (this issue)	$949,000
7% Cumulative Preferred Stock	239,700
Common Stock (no par value)	2,000 shares

SECURITY

The First Mortgage Gold Bonds are a direct obligation of the Ohio Electric Power Company and are secured by a direct first mortgage upon the entire fixed property of the Company.

VALUATION

The value of the property owned by the Company, as determined by independent public utility engineers and appraisers, is largely in excess of the total outstanding funded debt of the Company.

EARNINGS

The consolidated earnings of the properties now owned by the Ohio Electric Power Company, for the twelve months ended April 30, 1925, were as follows:

Gross Earnings	$380,886
Operating Expenses and Taxes (Including Current Maintenance and Taxes other than Federal Income Taxes)	272,310
Net Earnings	$108,576
Annual Interest on $949,000 First Mortgage 6½% Bonds (this issue)	61,685

SINKING FUND

On July 1, 1925, and on each July 1 thereafter to and including July 1, 1929, the Company covenants to pay to the Trustee as a Sinking Fund for the Series "A" Bonds, an amount equivalent to 1% of the greatest principal amount of the Series "A" Bonds outstanding at any time during the preceding twelve months; and on July 1, 1930, and on each July 1 thereafter to and including July 1, 1934, an amount equivalent to 1½% of such principal amount of Series "A" Bonds; and on July 1, 1935, and on each July 1 thereafter to and including July 1, 1939, an amount equivalent to 2% of such principal amount of Series "A" Bonds; and on July 1, 1940, and on each July 1 thereafter to maturity an amount equivalent to 2½% of such principal amount of Series "A" Bonds.

All monies in the Sinking Fund are to be used exclusively for the purchase or redemption of bonds of Series "A" at or below their redemption price, and all bonds so acquired are to be cancelled.

PROPERTY

The major portion of the Company's power requirements is purchased from the Ohio Public Service Company for the Oberlin division, from the Northern Ohio Traction & Light Company for the Ravenna division, and from the Western Ohio Railway Company at Saint Mary's, at rates fixed in accordance with the practice of the Ohio Public Utilities Commission. In addition, the Company owns reserve electric generating stations at Oberlin, Ravenna and Norwalk.

The electric distribution system owned by the Company consists of the necessary poles, wires, transformers

and equipment adequate to serve its electric customers, as well as the street lighting systems in Oberlin and Ravenna. The power purchased from the Northern Ohio Traction & Light Company is transmitted over a 22,000-volt high-tension line owned by the Company, from Brady's Lake to Ravenna, three and one-half miles, where it is transformed for domestic lighting and power uses. The Company also owns the 13,200-volt transmission line from Ravenna to Mantua, a distance of approximately eight and one-half miles, and the 22,000-volt transmission line from Elyria through Oberlin to Norwalk, a distance of 34 miles. The transmission system in Mercer, Auglaize, Shelby and Darke Counties comprises 66 miles of transmission lines, most of which are designed and constructed for 33,000-volt operation, although temporarily operated at reduced voltage. Gas distributing mains at Oberlin, aggregating about 79,000 feet in length, are also owned by the Company.

GROWTH OF BUSINESS

The growth of the Company's business since 1919 of the properties now owned by the Company, is shown by the following table:

Year	Number of Customers	Kw-hr. Sold	Gross Revenue
1919	3,145	1,927,024	$180,003
1920	3,545	2,485,231	272,146
1921	3,932	2,915,824	284,650
1922	4,136	3,364,391	294,961
1923	4,418	3,646,908	318,322
1924	4,723	3,791,082	318,917
1925 year to Apr. 30)	6,475	4,852,999	380,886

In this six and one-third year period, the number of customers has increased 106%; Kw-hr. sold have increased 152%; and the gross revenues of the Company have increased 112%.

The above figures for 1925 give effect to the recent acquisition of additional properties, which serve about 1,160 electric customers.

MORTGAGE RESTRICTIONS

Additional First Mortgage Gold Bonds may be issued from time to time to a principal amount not exceeding 80% of the cost or fair value (whichever is less) of additional properties and/or permanent additions, im-

provements or acquisitions (as defined in the mortgage) made or acquired subsequent to July 1, 1924, less the total principal amount of prior liens (as defined in the mortgage) outstanding thereon, if any, provided earnings applicable to bond interest (as defined in the mortgage) for twelve consecutive calendar months within the fifteen calendar months immediately preceding the date of application for issuance of bonds, shall have been not less than twice the annual interest charges on all First Mortgage Gold Bonds outstanding, including those proposed to be issued (and on outstanding prior liens, if any, as defined in the mortgage); or additional bonds may be issued to a principal amount not exceeding 75% of the cost or fair value (whichever is less) of any such property if such net earnings shall have been not less than 1¾ times such interest charges.

First Mortgage Gold Bonds may also be issued against the deposit with the Trustee of an equal principal amount of cash, and such cash may be withdrawn in the manner and to the extent that bonds may be issued under this mortgage. First Mortgage Gold Bonds may also be issued to refund equal par amounts of the same or other series of bonds issued under this mortgage and prior liens (as defined in the mortgage), if any, on after acquired property.

First Mortgage Gold Bonds may be issued from time to time in series with such provisions as may be determined by the Board of Directors, subject to the restrictions of the mortgage. The bonds of additional series may bear such dates, rates of interest, mature at such times and carry such redemption, sinking fund, tax refund provisions; and such other varying or distinguishing provisions as may be determined by the Board of Directors, subject to the restrictions of the mortgage, but, except as to sinking funds which may be established for the exclusive benefit of a particular series, all bonds of all series shall be equally and ratably secured by the mortgage.

FRANCHISES

The franchises under which the Company operates are satisfactory in form and without burdensome restrictions. The Company's properties are operated under the jurisdiction of the Public Utilities Commission of Ohio, and the issuance of these bonds has been authorized by the Commission.

MANAGEMENT

The general operation of these properties will continue under the supervision of public utility operators whose successful and efficient management of important public utility companies has been demonstrated over a long period of years.

Yours very truly,
(Signed) Victor Emanuel,
Vice President.

PLAINTIFF'S EXHIBIT No. 79

New Issue

OHIO ELECTRIC POWER COMPANY
First Mortgage Gold Bonds
Series "B" 6% Sinking Fund

Dated January 1, 1926 Due January 1, 1946

Interest payable January 1 and July 1. Coupon bonds in interchangeable denominations of $1,000, $500 and $100. Only $1,000 bonds registerable as to principal. Redeemable at the option of the Company in whole or in part on any interest date on thirty days' notice to and including January 1, 1927, at 105 and accrued interest; this premium of 5% of the principal decreasing at the rate of ¼ of 1% of the principal on each January 2 thereafter. Interest payable at the option of the holder in New York or Chicago. Principal payable at the office of The Seaboard National Bank of The City of New York, Trustee.

Interest Payable Without Deduction for Normal Federal Income Tax Not to Exceed 2%

Pennsylvania Four-Mill Tax and Massachusetts Six Per Cent Income Tax refundable to holders resident in those states, as provided in the mortgage.

The Issuance of These Bonds Has Been Authorized by The Ohio Public Utilities Commission

The following information is summarized by Mr. Victor Emanuel, Vice-President, from his accompanying letter and from auditors' and appraisers' reports and other reliable sources:

Business: The Company supplies electric light and power in Oberlin, Ravenna, Sidney, Mantua, DeGraff and in an extensive territory in Mercer, Auglaize, Shelby and Darke Counties, Ohio—the total number of communities served being 45. Gas is also furnished at retail in the city of Oberlin. A subsidiary also furnishes, without competition, electric light and power in Union City, Indiana. The territories served by the Company include important agricultural and industrial districts in the north-central and west-central portions of Ohio. The aggregate population of the territories served is estimated at 70,000, and the total number of customers served is in excess of 12,500.

Security: The First Mortgage Gold Bonds are a direct obligation of the Company and are secured by direct first mortgage on its entire fixed property, subject only to $352,000 of Divisional Underlying 6% bonds now outstanding on part of the property only. Based on recent appraisals by independent public utility engineers and appraisers, the value of the properties of the Company is largely in excess of the total funded debt to be presently outstanding.

Earnings: For the twelve months ended June 30, 1926, the consolidated earnings of the Ohio Electric Power Company and its subsidiary were as follows:

Gross Earnings	$922,367
Operating Expenses and Taxes (including current maintenance and taxes other than Federal Income Taxes)	671,113
Net Earnings	$251,254
Annual Interest Charges on Total Funded Debt (including this issue)	126,971

The net earnings, as shown above, are thus practically twice such annual interest charges.

Sinking Fund: The Company covenants to pay to the Trustee as a Sinking Fund for the Series "B" bonds on July 1, 1927, and on each July 1 thereafter to and including July 1, 1945, an amount equivalent to 1% of the greatest principal amount of the Series "B" bonds outstanding at any time during the twelve months preceding the respective payments. All moneys in such

Sinking Fund are to be used for the purchase or redemption of Series "B" bonds at or below their current redemption price and accrued interest, and all bonds so acquired are to be cancelled.

Management: All of the outstanding Common Stock of Ohio Electric Power Company, except Directors' qualifying shares, is owned, either directly or indirectly through one of its subsidiaries, by National Electric Power Company. The local management of the business is in the hands of the men who have been responsible for the successful development of these properties, while its general operation is under the supervision of public utility operators whose successful and efficient management of important public utility companies has been demonstrated over a long period of years.

All legal details in connection with this issue will be passed upon and approved by Messrs. Pam & Hurd, Chicago, for the Bankers, and Messrs. Seibert & Riggs, New York, for the Company. The principal properties have been reported upon by Day & Zimmermann, Inc., Engineers, Philadelphia. The books and accounts of the Company are audited annually by Messrs. Arthur Young & Co., New York.

These bonds are offered for delivery when, as and if issued and accepted by us and subject to approval of our counsel. Definite bonds are ready for delivery.

Price on Application

A. C. ALLYN AND COMPANY
Established 1912
Investment Securities
67 West Monroe Street, Chicago
Telephone Randolph 6340
Milwaukee · Philadelphia San Francisco Minneapolis
New York Boston

The statements herein made are not guaranteed, but they are based upon reports and other information which we believe to be entirely reliable, and upon which we have acted in purchasing these securities for our own account.

OHIO ELECTRIC POWER COMPANY

New York, August 26, 1926

Messrs. A. C. Allyn and Company, Inc.
Gentlemen:

In connection with the issuance of Ohio Electric Power Company First Mortgage Gold Bonds, Series

"B," 6% Sinking Fund, I am pleased to submit the following information:

BUSINESS AND TERRITORY

The Ohio Electric Power Company supplies electric light and power in the cities of Oberlin, Ravenna, Sidney, Mautua, Atwater, St. Mary's, Norwalk, DeGraff and in an extensive territory in Mercer, Auglaize, Shelby and Darke Counties, Ohio—the total number of communities served being 45. Gas is furnished at retail in the city of Oberlin. The Company also owns all of the outstanding Common Stock, except Directors' qualifying shares, of the Union City Electric Company, supplying electric light and power in Union City, Indiana.

The territories served by the Company include important agricultural and industrial districts in the north-central and west-central portions of Ohio. Sidney is located in the prosperous Miami River Valley and is the home of the Wagner Manufacturing Company, one of the largest manufacturers of aluminum-ware in the United States. There are also located in Sidney large manufacturing establishments whose products include bread-making machinery, automobile bodies, washing-machines, road-building machinery and tools. At Oberlin is located the well-known Oberlin College, having an enrollment of approximately 1,000 students. Ravenna is the County Seat of Portage County and is an important industrial and manufacturing center. Union City, in addition to being the center of a thriving agricultural community, is also an important industrial center, being the home of two large automobile body manufacturing establishments.

These territories are particularly well supplied with railway transportation, being served by the New York Central, Pennsylvania, Baltimore & Ohio and Erie Railroads, as well as by a number of smaller railway and interurban lines. The territories have an aggregate population estimated to exceed 70,000, and the total number of customers is in excess of 12,500.

CAPITALIZATION
(To Be Outstanding Upon Completion of Present Financing)

First Mortgage Gold Bonds, Series "A"	
6½% Sinking Fund	$949,000
First Mortgage Gold Bonds, Series "B"	
6% Sinking Fund (this issue)	647,000

Divisional Underlying 6% Bonds..... 352,000
Seven Per Cent Cumulative Preferred Stock 464,500
Common Stock (No Par Value)..... 20,000 shares

In addition, there are outstanding $89,100 principal amount of 6% Bonds of its subsidiary.

SECURITY

The First Mortgage bonds are a direct obligation of the Company and are secured by direct First Mortgage upon its entire fixed property, subject only to $352,000 Divisional Underlying 6% Bonds outstanding on part of the property only.

VALUATION

Based on recent appraisals by independent public utility engineers and appraisers, the value of the fixed property of the Company is largely in excess of its total funded debt to be presently outstanding.

EARNINGS

For the twelve months ended June 30, 1926, the consolidated earnings of the Ohio Electric Power Company and its subsidiary were as follows:

Gross Earnings $922,367
Operating Expenses and Taxes (including current maintenance and taxes other than Federal Income Taxes)..... 671,113
Net Earnings $251,254
Annual Interest Charges on Total Funded Debt (including this issue)..... 126,971

The Net Earnings, as shown above, are thus practically twice such annual interest charges.

SINKING FUND

The Company covenants to pay to the Trustee as a Sinking Fund for the Series "B" bonds on July 1, 1927, and on each July 1 thereafter to and including July 1, 1945, an amount equivalent to 1% of the greatest principal amount of the Series "B" bonds outstanding at any time during the twelve months preceding the respective payments. All moneys in such Sinking Fund are to be used for the purchase or redemption of Series "B"

bonds at or below their current redemption price and accrued interest, and all bonds so acquired are to be cancelled.

PROPERTY

The major portion of the Company's power requirements for the Oberlin Division are purchased at favorable rates from the Ohio Public Service Company, for the Ravenna Division from the Northern Ohio Power & Light Company, for the Sidney Division from the Dayton Power & Light Company, and for its subsidiary, the Union City Electric Company, from the Greenville (Ohio) Light & Power Company. In addition the Company owns reserve electric generating stations at Oberlin, Ravenna, Sidney and Norwalk.

The electric distribution systems owned by the Company and its subsidiary consist of the necessary poles, wires, transformers and equipment adequate to serve efficiently its electric customers. Street lighting systems in each of the principal cities served, except Norwalk, are owned by the Company. High tension transmission lines owned by the Company extend from Brady's Lake to Ravenna, Mantua to Ravenna and from Elyria, through Oberlin, to Norwalk, and there are in addition 66 miles of high tension transmission lines located in Mercer, Auglaize, Shelby and Darke Counties. The aggregate length of these lines is in excess of 191 miles. At Oberlin, the Company owns approximately 79,000 feet of gas distributing mains, serving 1,218 customers.

GROWTH OF BUSINESS

The growth of business since 1921 of the properties of the Company and its subsidiary is shown by the following table:

Year	Number of Gas and Electric Customers	Kw. Hrs. Sold	Gross Revenue
1921	9,384	9,298,158	$626,384
1922	9,913	10,813,800	679,540
1923	10,548	11,599,824	737,027
1924	11,231	11,918,720	772,391
1925	12,117	13,098,020	854,142
1926—12 months ended June 20	12,533	14,219,651	922,367

In this five and one-half-year period, the number of customers has increased 34%, kw. hrs. sold have increased 53%, and gross revenues have increased 47%.

MORTGAGE RESTRICTIONS

Additional First Mortgage Bonds may be issued from time to time to a principal amount not exceeding 80% of the cost or fair value (whichever is less) of additional properties and/or permanent additions, improvements or acquisitions (as defined in the mortgage) made or acquired subsequent to July 1, 1924, less the total principal amount of prior liens (as defined in the mortgage) outstanding theron, if any, provided earnings applicable to bond interest (as defined in the mortgage) for twelve consecutive calendar months within the fifteen calendar months immediately preceding the date of application for issuance of bonds, shall have been not less than twice the annual interest charges on all First Mortgage Bonds outstanding, including those proposed to be issued (and on outstanding prior liens, if any, as defined in the mortgage); or additional bonds may be issued to a principal amount not exceeding 75% of the cost or fair value (whichever is less) of any such property if such net earnings shall have been not less than 1¾ times such interest charges.

First Mortgage Bonds may also be issued against the deposit with the Trustee of an equal principal amount of cash, and such cash may be withdrawn only in the manner and to the extent that bonds may be issued under this mortgage. First Mortgage Bonds may also be issued to refund equal par amounts of the same or other series of bonds issued under this mortgage and prior liens (as defined in the mortgage), if any, on after acquired property.

First Mortgage Bonds may be issued from time to time in series with such provisions as may be determined by the Board of Directors, subject to the restrictions of the mortgage. The bonds of additional series may bear such dates, rates of interest, mature at such times and carry such redemption, sinking fund, tax refund provisions, and such other varying or distinguishing provisions as may be determined by the Board of Directors, subject to the restrictions of the mortgage, but, except as to sinking funds which may be established for the exclusive benefit of a particular series, all bonds of all series shall be equally and ratably secured by the mortgage.

FRANCHISES

The franchises under which the Company operates are satisfactory in form and without burdensome restric-

tions. The Company's properties in Ohio are operated under the jurisdiction of the Ohio Public Utilities Commission and the issuance of these bonds is subject to the authorization of the Commission.

MANAGEMENT

All of the outstanding Common Stock of Ohio Electric Power Company, except Directors' qualifying shares, is owned, either directly or indirectly through one of its subsidiaries, by National Electric Power Company. The local management of the business is in the hands of the men who have been responsible for the successful development of these properties, while its general operation is under the supervision of public utility operators whose successful and efficient management of important public utility companies has been demonstrated over a long period of years.

Very truly yours,
Victor Emanuel,
Vice President.

PLAINTIFF'S EXHIBIT No. 80

Norwalk-Reflector Herald, Saturday, Nov. 21, 1914. Column 1, Page 1; Columns 3, 4, 5 and 6, Page 3.

GREEN LINE IS GIVEN HEARING BUT NO ENCOURAGEMENT

Hundred Citizens Turned Out to Hear Discussion of Latest Proposition

That the citizens of Norwalk in an overwhelming majority are firm in their decision to have a municipal lighting plant was indicated last evening, at a meeting held in the assembly room of the fire department head-

quarters arranged by the officials of the C. S. and C. Ry. Company.

The meeting was arranged that President F. E. Meyers and Vice-President J. L. Wolfe, of the Railway Company, might address the citizens relative to their proposition to come back on probation. The meeting was arranged by representatives of the company and was the last stand, with the possible exception of a suit attacking the validity of the bond issue, which was intimated by the officials of the company might follow.

Mr. Meyers and Mr. Wolfe both admitted that Norwalk had not been treated fairly by the company, but added, during their official connection with the road money was needed in other directions for the rebuilding of the railroad property more than in Norwalk, in their judgment. They preferred not to talk of the past but to look to the future. Residents of Norwalk, however, could not take their minds off the past and were strongly impressed with the old saying that the only way to judge the future is by the past.

When the meeting was called to order by Mayor Martin every chair in the room was taken and the end of the room near the entrance was crowded to the front of the building.

Mayor Martin presided when J. R. McKnight, President of the Chamber of Commerce, declined that post. The Mayor stated the object of the meeting adding that the City Council declared itself in favor of proceeding with the erection of a municipal plant. Mr. Meyers, he said, had expressed a desire, with other officials of the company, to address the council and citizens of Norwalk on the company's latest proposition.

After stating that it was an open meeting with everybody free to enter the discussing of the subject, he called upon C. H. Gallup, a friend of Mr. Meyers, to introduce that gentleman.

Mr. Gallup gave the President of the railway company, who is a resident and very wealthy resident of Ashland, O., a most complimentary introduction, saying that what he had to say would come from an honest heart and whatever promises he would make would be fulfilled. Mr. Gallup stated that he believed the railway company sincere in its proposition and that he knew Mr. Meyers to be an honest man.

President Meyers' Talk

After thanking Mr. C. H. Gallup for such a complimentary introduction, Mr. Meyers said he was more or less disturbed to know what the people of Norwalk are

willing to receive from an official of the Railway Company. He said he knew he was carrying the odium of being President of The C. S. and C. Company and that the Company was considerably embarrassed by the large vote in favor of the Municipal ownership.

"We know we are guilty of acts of omission," he said, "and are willing to start reproved. Our object in coming here, however, is in having you know we are sincere in our proposition to rebuild our plant along your lines and operate it on a year's trial at about one-half the cost of the present system. We have reached the point where we are willing to tell you what we can do, if you will believe in us.

"I am not going to cast any odium on my predecessors in the company, but I can assure you that when I came to the company I assumed a great deal. If it had not been for the pump factory, we would not have a railway free of embarrassment.

"We have all of us as business men encountered hard problems. I did not know all that was to be encountered or I would not be here now. My highest ambition was to improve the road bed enabling us to secure a patronage that would insure a satisfactory business. It took all the money we could get and we are today carrying an odium for paying for improvements and equipment instead of paying dividends.

"We chose to improve the property and carry the odium in the hope that the dividends would come later on. While that was going on the matter of light and power was not looked after as it should have been.

"I can frankly say I can understand why some of you feel as you do. I don't know what I can say except that we propose to redeem ourselves, if you will give us a chance. If it were not for the investment we have in your City, we could not think of making the proposition we have. We could not and would not think of making such a proposition in a new deal.

"In our discussion of this matter this evening, we do not care to deal with the past, but to talk of the future."

In response to the question of how long he had been President of the Company asked when he had finished, Mr. Meyers replied that it was about four or five years, adding, "Long enough to know that it is the hardest proposition I ever had to make money out of."

Mr. Wolfe's Talk

The next speaker was Mr. Wolfe, a Cleveland banker and financier, he is Vice-President of the Com-

pany. He stated at the outset of his talk that the Company had undertaken to do something in this instance that is a novel proposition. He declared the company's proposition to be more advantageous than any ever offered by a power company to a municipality of which he has any knowledge.

The Company is only able to do this, he declared, by reason of its investment in this city. Rather than have the investment destroyed, the Company has made some sacrifices, he declared.

"Rather than incur a heavy loss we have made a proposition to deliver power on rates that are unprecedented," declared Mr. Wolfe. "These rates, I am confident, are lower than the City of Norwalk can produce power for by running its own plant. This arises from several causes, such as larger units of manufacture, and diversity of load. At the rate offered, if maintenance and depreciation on municipal plants are taken into consideration, the rate offered by the company is much cheaper than it can be produced in Norwalk."

Mr. Wolfe then outlined the company's proposition, which he declared would save the city $4000.00 during the trial year. The proposition he said includes a reduction in commercial power and residence lighting. Then followed a long line of promises of what the company would do if given a year's time to show what kind of service it could give to the City of Norwalk without binding the City to anything except to take off the company's hands, if it then desired to go on with a municipal plant, the improvements made during the year under the direction of the city's engineer.

"It is feasible to give Norwalk good service," declared Mr. Wolfe. "We are not claiming to have had it, but there were reasons why the company was prevented from doing so. We might have done this instead of doing other things and if we had, the company might have been in the hands of receivers. Instead of a tottering property it is now on its feet. We have financial problems to meet but we have nursed our resources and feel that we are now on a safe basis.

"We are now prepared, if given the opportunity, to make some investments in Norwalk without taking the money from other propositions that needed attention.

"We know we are in good operating condition, able to keep the road up and still give attention to Norwalk. We believe most of you men here would do as we have done."

The Other Side

J. R. McKnight was the first citizen to speak. He said he was satisfied from the talks of both men that they were good servants, acting in the best interests of their stockholders and the public.

"As citizens of Norwalk we are now up to a point where we must decide whether or not we shall be good servants of the people of this city," said Mr. McKnight. "What has been said as to price may be true and I shall not argue that. The question for us to consider is what will be of the greatest ultimate value to the city."

The speaker said the business men of Norwalk have not for some time been working together as they ought. A feeling of distrust has been in the minds of many. He said the declaration of the people of the city for a municipal plant was a getting together of the forces of the city that should not be quickly set aside.

"It is not a question of saving $3,000.00 or $4,000.00 this year," said the speaker, "but a question of having a harmonious citizenship to cope with other propositions, which would be worth infinitely more. We should be in a position to protect ourselves the same as these gentlemen have done with their company. With the utmost kindness to these gentlemen I say I believe they are good servants. Ought not we to be good servants to our people? The council ought to have our support. We don't want to get into a quarrel with ourselves. We should be in a position to protect ourselves."

G. F. Titus former vice-mayor was the next speaker. He said there was not a month in the past nine years when the service of the company has been satisfactory. He thought it rather late in the day for the company to ask for a chance to furnish good service now.

The speaker cited the fact that officials of the company were invited to attend a meeting of the Chamber of Commerce as long ago as last February, when the light matter was up for discussion. Again a few nights before the bond election, at a meeting of citizens, they were asked to be present, but at neither of these meetings did anyone representing the company show up.

Mr. Titus then exhibited a circular, signed "Taxpayer," distributed the night before the election on which was a list of 200 towns purporting to be operating municipal plants, which, the circular declared, were failures. Having investigated the circular, corresponding with the officials of many of the cities, Mr. Titus declared that instead of 200 failures the sheet represented 200 lies.

Mr. Titus said not one of the company's propositions had been signed by a competent official of the company. All propositions, he declared, have been for delay so that that time would be too short in which to erect a municipal plant and the city be compelled to accept the company's proposition.

"I believe there are more hooks in the bait this company has thrown out than there bones in a shad," said the speaker. "I believe if we enter into a contract with this company, we will be without light for the next eleven years as we have been for the past nine years.

"I believe I voice the sentiment of a great majority of the people of the city when I ask that we be allowed to proceed with the erection of our municipal plant. I suggest, for one, that this discussion be cut out. We have decided in favor of a municipal light plant. We want it and we are going to have it."

Mr. Titus closing remarks were greeted with a round of hearty applause. Mr. Wolfe took exceptions to some of Mr. Titus' remarks, that the propositions of the company were not signed by responsible representatives, or that it was as full of snags as a shad is of bones.

G. S. Stewart inquired what would happen to the city, if, at the end of the trial year the city did not wish to continue relations with the company. Mr. Wolfe stated that the company would continue the operation of the plant until such time as the city should have its own plant in operation, and under guaranteed rates.

Mr. Wolfe again took occasion to combat the arguments of Mr. Titus, saying the company had not come to Norwalk with anything up their sleeves, or that there is anything mysterious about the manufacture of electrictiy, or in a contract between a corporation and a municipality.

George Parker, who was a director of public service when the present contract was first put into operation with the city, said he had no confidence in the company and never would have. He told of the suit the company instituted to get its first year's pay under the contract, and the settlement made allowing the city several thousand dollars.

"I move that the council be instructed to proceed with the construction of the municipal plant," interposed Mr. Titus at this time. The suggestion was greeted with a score of seconds.

George S. Stewart then spoke again, analyzing the matter as a purely business proposition. He agreed that the proposition was not just what he thought it was,

but offered some suggestions, which were accepted by Mr. Wolfe and Mr. Meyers, these being that a contract be entered into for ten years with privilege that the city, at any twelve months period might abrogate, making over the plant at its appraised value. Mr. Stewart was of the opinion the good business sense ought to prevail over hasty action in the erection of a municipal plant, especially as the company is offering a good proposition. He thought the city could easily safeguard itself in a contract with the company.

J. M. Harkness declared the company has not given what they were paid for in the way of service, and he had not heard of the company's giving anything back for the nine years; they admit poor service, and furthermore they don't intend to give anything back unless they can get a new contract, he said.

Mayor Martin being asked for remarks, stated that the council at its last meeting decided to go on with the plant, and that in this they will have the support of the administration to the end that the people be given the best plant possible.

Attorney G. Ray Craig was the next speaker. He said he was heartily in favor of the plant, more so now than ever before, since the people had declared in favor of it by a ten to one vote. He said he was wondering why the company submitted its proposition now and not prior to the bond election, and why this change of heart.

Mr. Craig said he was opposed to entering into a tentative contract. That past experience was not such as to inspire confidence in the promises the company has made. He said he knew something of the litigation at the outset of the contract and that there is no doubt that the company "buncoed" the city in the deal. He said it is an undisputed fact that the company installed a plant in this city nine years ago with lamps that had been discarded in manufacture five years previous and put in a system of lighting not contemplated when the contract was made. Mr. Craig then raised one of the most interesting questions of the discussion. He addressed himself to Mr. Wolfe and asked him whether or not it was true that the company had up its sleeve a petition to be filed in court attacking the validity of the bonds and to stop its issue.

To this Mr. Wolfe replied that McGinn, the company's attorney, expressed the belief that the bond issue was illegal and that as an attorney he was in favor of instituting proceedings that would demonstrate the illegality of the bonds.

"Mr. Meyers and myself," declared the speaker, "prevailed upon him not to do this. What the entire board of directors, numbering seventeen, may finally desire to do in this regard I am not in a position to say."

Mr. Craig expressed the opinion that it came with poor grace for a company asking favors of a city to attempt, if defeated in its negotiations to attempt to slander the bonds of the municipality.

By this time the hour of ten o'clock had been reached and the crowd was growing impatient. There were frequent cries of "question" and finally Mayor Martin put the proposition made by Mr. Titus, some time previous, that the council be instructed to proceed with the construction of the municipal plant, to a vote.

There was an uproarious "Aye." No one raised his vote in the negative.

PLAINTIFF'S EXHIBIT No. 81

CLEVELAND SOUTHWESTERN AND COLUMBUS RAILWAY COMPANY
Cleveland, Ohio

F. E. Myers, Pres.
F. H. Ginn, V. Pres.
L. J. Wolf, 2nd V. Pres.
J. O. Wilson, Sec. & Treas.
E. F. Schneider, Gen. Mgr.
H. B. Cavanaugh, Auditor.

October 12, 1914.

To the Mayor and City Council
of the City of Norwalk, Ohio.

Gentlemen:

We are so confident of our ability to give to the City of Norwalk uninterrupted, regular and satisfactory service that we are willing to make a demonstration to the city at considerable initial expenditure to ourselves and without any obligation upon the City other than herein expressed.

We know that the rates proposed herein, and heretofore submitted to you, will save the City of Norwalk itself a considerable sum, and that the rates proposed for residence and commercial lighting will save a large sum to the residents of Norwalk.

Our proposal will not in any way interfere with the erection and operation by the City of a municipal plant, if our test proves unsatisfactory to you and to the citizens of Norwalk, but if it proves successful and satisfactory, we will save for the city and the citizens not only a considerable sum in the price of current, but also the necessity of a large capital investment and the operation of a municipal plant.

Our proposal in brief is as follows:

(a) Southwestern Company to rebuild the transmission lines from Elyria to Norwalk so as to insure reliability of service.

(b) The Company to sell the city 25-cycle energy at 1¾ cents per KWH and 60-cycle energy at 2½ cents per KWH and when an aggregate of both kinds of electric energy of more than 700,000 KWH per year delivered to the city and the consumers of Norwalk, is attained, the price for 60-cycle to be reduced to 2¼ cents per KWH, said electric energy to be measured at the point of delivery to the City at the company power house at Norwalk, the company to install duplicate Master Meters at said point.

(c) The 25-cycle energy is in every way as useful and serviceable for street lighting as 60-cycle, but the city may, according to its desire take either 25-cycle or 60-cycle.

(d) The Company under the direction of the directors of public works of Norwalk or of the City Council to make the investment in such extensions of the distributing line and appurtenances in Norwalk desired by the City, including the "White Way" system.

(e) The company to install switches on the various circuits of street lamps so that the lamps may be cut on or off so as to control the hours of burning.

(f) The company to equip the present arc lines for the use of nitrogen tungsten instead of arc lights, the city to furnish the bulbs and renewals of bulbs.

(g) Residence and commercial lighting to be as per company's bid submitted last May.

(h) All of the above arrangements to run to the end of the present contract for street lighting, and if at the end of the present contract the city and the company cannot agree upon a renewal the city is then to take over

and pay for such of the extensions and equipment installed in Norwalk, above referred to, at cost to our company made under the directions of the public authorities of Norwalk and the company shall continue to operate upon the present proposed terms until the municipal plant is built and ready for operation, the city to be under no obligation to buy any portion of the present lines. The city, however, to have the option to purchase such portion of our present distributing lines, equipment, line transformers, meters, etc., constituting our present distribution system in the City, if the city may desire to purchase at prices to be then mutually agreed upon and if an agreement cannot be arrived at, prices to be determined by arbitration.

Very truly,

F. E. Myers, President of the Cleveland Southwestern and Columbus Railway Company.

PLAINTIFF'S EXHIBIT No. 82

OHIO ELECTRIC POWER COMPANY
Norwalk, Ohio.

October 27, 1926.

To Our Customers:

Due to the fact that there is now a controversy between the Ohio Electric Power Company and the City, over the right to continue to operate in the City of Norwalk, it is our desire to inform our customers that there are various reports regarding our continued operation of our electric property after the election on November 2d. If the ordinance to be voted on at that time establishing our rights here should be defeated we wish to inform you that no matter what the outcome of the election we shall continue to serve our customers. Do not be misled by false reports as these reports emanate from people who do not understand the issue and are entirely

misinformed. If our ordinance is defeated the matter will, of course, be fought out in the courts and it will be many months before a final decision is reached. A long period will elapse before you need worry about being without our service.

We adopted the plan of presenting this ordinance to the voters on election day for the reason that we want to avoid the expense, not only to ourselves, but to the taxpayers, of long drawn out litigation and in the end be just where we started. This is the quickest way to settle the matter without further expense to all concerned.

We are hoping, however, that our customers will avail themselves of this opportunity on election day, November 2d, to go to the polls and vote "yes" on our ordinance which will make secure the fair competition which will be carried on between the Ohio Electric Power Co. and the City; thus assuring good service and low rates.

In conclusion please do not forget to go to the polls and vote "yes" on election day.

Yours very truly,
Ohio Electric Power Co.
By D. E. Turkle, Manager.

PLAINTIFF'S EXHIBIT No. 83

C. L. Clune hereby certifies that he is an Assistant Trust Officer of The Chase National Bank of the City of New York; that the records of the former The Seaboard National Bank of the City of New York, trustee, and of the former The Equitable Trust Company of New York, successor trustee, with reference to a certain mortgage and deed of trust dated July 1, 1924, and executed and delivered by the Ohio Electric Power Company to said Seaboard National Bank on September 2, 1924, and with reference to the mortgages supplemental thereto, are now

in the possession and control of The Chase National Bank of the City of New York, as successor trustee under said mortgage and deed of trust and said supplemental mortgages; that annexed are an exact copy of the Engineer's Certificate and an exact copy of the Independent Engineer's Certificate which were furnished to the trustee in connection with the authentication and delivery on May 28, 1925, under said mortgage by the trustee of $100,000 in principal amount of bonds; and that the original of said Engineer's Certificate and the original of said Independent Engineer's Certificate are on file with the records of the trustee.

Dated November 18, 1930.

C. L. Clune,
Assistant Trust Officer.

ENGINEER'S CERTIFICATE
Required by the Provisions of Subdivision (2) of Section 6 of Article V of the Mortgage and Deed of Trust

To the Seaboard National Bank of the City of New York:

We, Leo Loeb, Vice-President of Ohio Electric Power Company, and A. E. Burns, an Engineer in the employ of the Ohio Electric Power Company, appointed by the Board of Directors of said Company, to make this certificate for the purpose of inducing you to authenticate and deliver the bonds mentioned in the foregoing application, dated May 25, 1925, do hereby certify that hereto annexed and marked "Schedule A," (which is hereby made a part hereof as if herein set forth at length), is a description in reasonable detail of the permanent additions proposed as a basis for the issuance of the bonds specified in the said application; that the properties described in said Schedule are permanent additions as defined in Section 4 of Article I. of the said Mortgage and Deed of Trust; that they are desirable for use in the profitable conduct of the Company's business, and they do not consist in whole or in part of properties which under the provisions of Section 2 of Article V. of said Mortgage and Deed of Trust, are not permitted to be made the basis of the authentication and delivery of bonds; that the cost of said permanent additions is $161,300, and the fair value of said permanent additions being of the character described in Subdivision (3) of Section 6 of Article V. of said Mortgage and Deed of Trust is stated in the accompanying independent engineer's certificate to be one hundred sixty-one thousand three hundred thirty-nine ($161,339) Dollars, that the

undersigned have actual knowledge of the cost of said permanent additions acquired from the books of the Company, contracts relating to the purchase and acquisition thereof and other records of the Company and information acquired in the performance of their duties.

That there are no prior liens as defined in Section 5 of Article I. of said Mortgage and Deed of Trust existing upon any of the permanent additions described in said Schedule A. That all of the permanent additions described in said Schedule A consist of property which has been used or operated by other than the Company in the public utility business, or has not been constructed by or for the Company. This certificate and the said Schedule A include all permanent additions subject at the date hereof and at the time of the acquisition thereof by the Company to a lien which is or may become a prior lien, and which have not previously been made the basis for the issuance of bonds or the withdrawal of cash under said Mortgage and Deed of Trust, and which have been constructed or acquired to May 25, 1925.

Of the permanent additions referred to in this certificate so much thereof as have cost $133,334 are to be used as a basis for the issuance of bonds applied for in the annexed request dated May 25, 1925, leaving a balance of permanent additions costing $27,966 and of the same fair value available for use as a basis for the issuance of addition bonds.

Dated, May 25, 1925.

Leo Loeb,
Alan E. Burns.

State of New York, County of New York, ss.:

We, Leo Loeb, and A. E. Burns, do severally depose and say that we have read the foregoing Certificate and the Schedule A therein mentioned and that the statements therein contained are true.

Leo Loeb
Alan E. Burns

Subscribed and sworn to before me this 25th day of May, 1925.

Mae B. Coy, Notary Public.
New York County Clerk's No. 383.
New York County Register's No. 7337.
Commission expires Mar. 30th, 1927.
(Notarial Seal)

SCHEDULE A

Description of properties formerly belonging to the Cleveland Southwestern Railway and Light Company to be acquired by the Ohio Electric Power Company and to be used in the business of producing, supplying and selling electricity.

These properties comprise:

(1) A parcel of real property at Norwalk, Ohio, being the location of the power plant; and a parcel of real estate in Florence Township, Ohio, to be used for a substation.

(2) A brick power plant building and equipment at Norwalk, Ohio, the principal item of equipment being a 160 K.W. generator belt driven by a tandem compound steam engine served with steam by one 300 H.P. boiler. Located at this plant are three 100 K.V.A. transformers of 22,000/2,300 volts rating.

(3) An electric distribution system in the City of Norwalk serving approximately 540 customers.

(4) Substation equipment at Oberlin and Birmingham.

(5) A transmission line approximately 34 miles long being 22,000 volts three phase, constructed of wooden poles with patented steel triangular cross arms supporting aluminum wire, from Norwalk, Ohio, to Elyria, Ohio.

(6) Miscellaneous tools and equipment.

The foregoing properties with the exception of the real property are described in a bill of sale from the Cleveland Southwestern Railway and Light Company as follows:

(a) That certain three phase high tension line, poles and equipment therefor between the power house and substation in the City of Norwalk of the Grantor and the point of intersection of the Elyria-Oberlin Road, and East Lorain Street in the Village of Oberlin extended, east of Oberlin.

(b) That certain three phase high tension line, poles and equipment therefor, extending from the high tension line hereinbefore described in Paragraph (a) hereof, to the Oberlin Water Works in the Village of Oberlin, together also with all sub-station equipment in connection therewith of the Grantor in the City of Oberlin, said equipment including all articles of personal property and all appurtenances in and to said high tension line mentioned in this paragraph.

(c) All primary and secondary light lines of the Grantor located on the poles referred to in Paragraphs

(a) and (b) hereof and/or used in connection with the power and light business of the Grantor, including (1) approximately 3.9 miles of line between the city limits of the City of Norwalk and Stop 35 upon the Electric Interurban Railroad of the Grantor and (2) Line from point of connection with said high tension line described in Paragraph (a) hereof to and in the Village of Kipton, Ohio, and including all distribution power and light systems, transformers, meters, services and the equipment and appurtenances thereto or used in connection therewith of the Grantor, within said Village of Kipton.

(d) All distribution power and light systems, transformers, meters, services and the equipment and appurtenances thereto or in connection therewith of the Grantor within the corporate limits of the City of Norwalk, Ohio, including approximately 8.3 miles of lines and poles of the Grantor, approximately 5.2 miles of lines on poles of others than the Grantor, and approximately 4.3 miles of lines on poles owned jointly by the Grantor and others, together with all right, title and interest of the Grantor in and to the poles so occupied jointly.

(e) All equipment, material, appurtenances of the Grantor in and to the Power House and Sub-station of the Grantor in the City of Norwalk, Ohio, including boilers, engines, frequency changer, transformers, oil switches, metering equipment, rotary coverter.

Also all switching equipment, transformers, appurtenances and other equipment in connection with said three phase high tension line mentioned in Paragraph (a) hereof and located in the Railroad Station of the Grantor in the Village of Birmingham, Ohio, and used in connection with the commercial power and light business of the Grantor.

(f) That certain three phase high tension wire, cross arms, pins and insulators between the point of intersection of the Elyria-Oberlin Road and East Lorain Street of the Village of Oberlin extended, east of Oberlin (referred to in Paragraph (a)) and the point on the right of way of the Electric Interurban Railway of the Grantor where the Polk High Tension Line of the Grantor so-called, intersects said railway right of way and the pole line in connection therewith at Stop 100 on said right of way; more commonly known as Wack's Cheese Factory.

(g) That certain three phase high tension wire, pins and insulators located on the north side of poles of the Grantor between said Stop 100 referred to in Paragraph (f) hereof and the west property line of the car shops of the Grantor in the City of Elyria, Ohio.

INDEPENDENT ENGINEERS' CERTIFICATE
Required by the Provisions of Subdivision (3) of Section 6 of Article V of the Mortgage and Deed of Trust

To The Seaboard National Bank of the City of New York:

The undersigned, Day & Zimmermann, Inc., Engineers appointed by you and approved by the Board of Directors of the Company to make this certificate for the purpose of inducing you to authenticate and deliver the bonds applied for in the accompanying application of Ohio Electric Power Company, dated May 25th, 1925, do hereby certify that Schedule A hereto annexed, which is hereby made a part hereof as if herein set forth at length, contains a description in reasonable detail of the properties proposed as a basis for the issuance of bonds specified in said application which, as stated in the foregoing certificate of Leo Loeb and Alan E. Burns, consists of property which has been used or operated by others than the Company in the public utility business or which has not been constructed by or for the Company, and that the fair value thereof, for the purposes of the Company, is one hundred sixty-one thousand three hundred thirty-nine ($161,339) Dollars.

We do hereby further certify that the considerations governing our determination of the fair value thereof are as follows:

We have made an investigation of said property consisting of an inspection thereof to determine its operating condition and have prepared an inventory of the various items of physical property and have made an estimate of the reproduction cost new and such cost less accrued depreciation as of December 20, 1924, which is as follows:

	Estimated Cost of Reproduction Average Prices 1919-1924	
	New	Less Accrued Depreciation
Land	$ 3,500	$ 3,500
Power Plant	78,610	32,000
Distribution System	54,798	52,000
Substation	4,475	4,030
Transmission Lines	91,402	81,500
Miscellaneous	1,320	1,085
	$234,105	$174,115

In addition to the above estimate of reproduction cost new and such cost less accrued depreciation, we find

that for the purpose of purchase and sale the Public Utilities Commission of Ohio recently found a value for said property in the amount of $161,339.

Based on the foregoing considerations it is our judgment and opinion that the present value of these properties for the purposes of the Ohio Electric Power Company is one hundred sixty-one thousand three hundred thirty-nine ($161,339) Dollars.

Dated, May 27th, 1925.

W. Findlay Downs,
Manager Investigations and
Reports Department.

State of New York, County of New York, ss.:

W. Findlay Downs, being duly sworn, deposes and says: That he is an Engineer of Day & Zimmermann, Inc., a corporation organized and existing under and by virtue of the laws of the State of Maryland, and engaged in the engineering business; that he has read the foregoing certificate and the schedule thereto attached and knows the contents thereof and that the statements therein contained are true.

W. Findlay Downs.

Sworn to before me this 27th day of May, 1925.

Mae B. Coy, Notary Public
(Seal) New York County Clerk's No. 383
New York County Register's No. 7337
Commission expires Mar. 30th, 1927

SCHEDULE A

(Same as Schedule A to Engineer's Certificate, supra.)

PLAINTIFF'S EXHIBIT No. 84

O.K. as to form—E. F. B., H. C. L.

City Council Chamber,
Norwalk, O., March 25, 1913.

Council met in adjourned session with President Holiday, Clerk Christian and the following members: Cole, Fifner, Haas, Heston, Linder, Smith, Spurrier.

C. G. Taylor, representing the Cleveland Southwestern & Columbus Railway Co., submitted the following lighting proposition to the council:

First. To change the residence lighting rate from 12c. per K.W. to 10c. for the first 10 K.W. and 5c. for all over 10 K.W. consumed per month Minimum charge of 50c.

Second. To change the commercial rate from 8c. per K.W. to 10c. for the first 10 K.W. and 5c. for all over 10 K.W. consumed per month. Minimum charge of 50c.

Third. To change the city lighting system from 100 arc lamps at $65 per lamp, per annum, to 30 five light posts at $50 per post per annum, and 150 Tungston lamps at $18 per lamp per annum.

In exchange for the above said company asks your honorable body for,

Fourth. An eight year extension of their present lighting contract.

After a somewhat lengthy discussion of the lighting proposition, on motion of Spurrier, seconded by Smith, council adjourned.

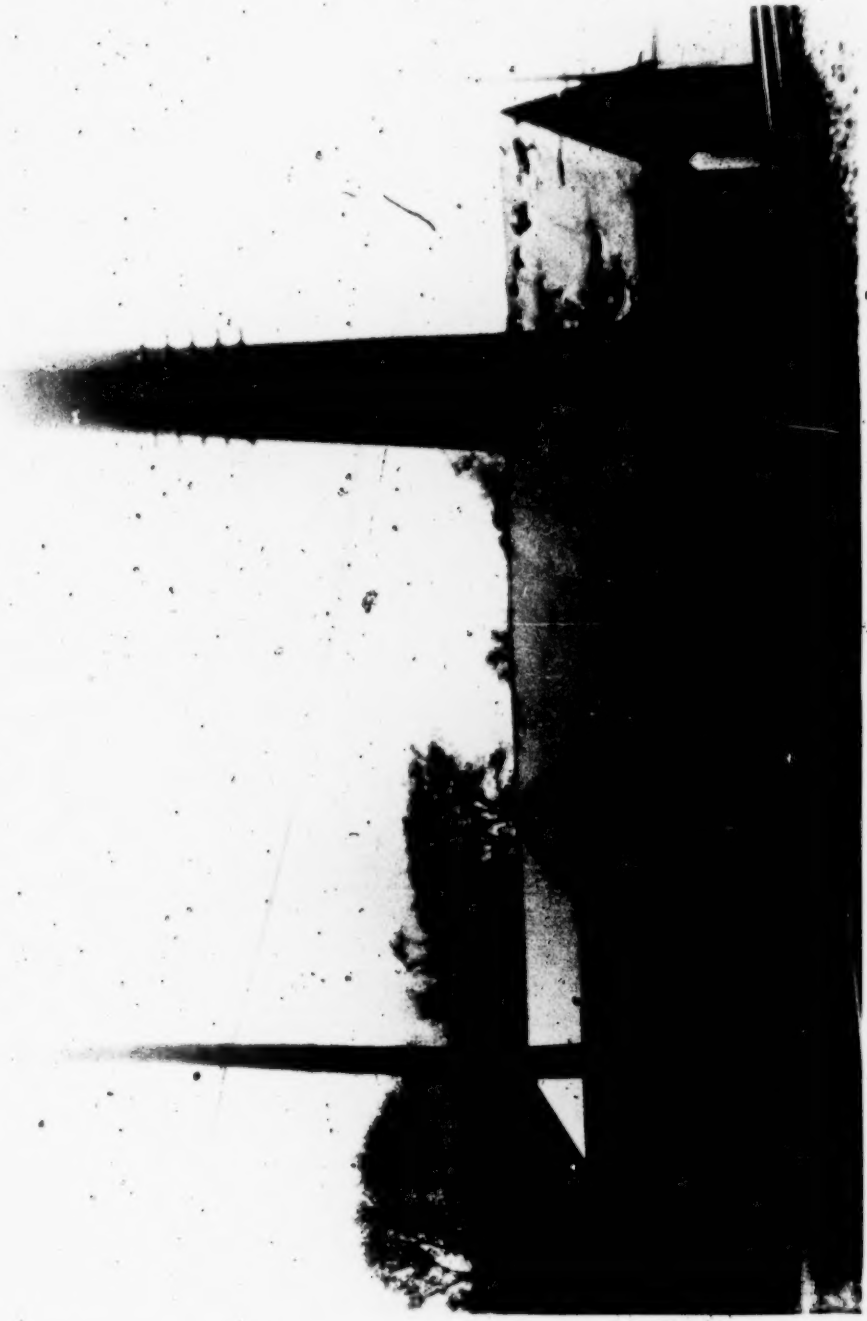
R. L. Christian,
Clerk.

A. C. Holiday,
President.

I, F. G. Warner, City Auditor and Clerk of Council of the City of Norwalk, Ohio, do hereby certify that the foregoing is a true and correct copy of the records of the Council of the City of Norwalk, the same being in my possession and under my control.

(Signed) F. G. Warner

DEFENDANT'S EXHIBIT A



DEFENDANT'S EXHIBIT B

O.K. as to form—H. C. L., E. F. B.

Initiative Petition to Submit to the Electors of the City of Norwalk the Ordinance Granting The Ohio Electric Power Co. a Franchise for Fifteen Years, to Be Voted on Nov. 2, 1926, and Result of Vote.

NOTICE

Whoever knowingly signs this petition more than once, signs a name other than his own, or signs when not a legal voter, is liable to prosecution.

To: F. G. Warner,
Auditor of the City of Norwalk, Ohio:

We, the undersigned electors of the City of Norwalk, County of Huron, Ohio, respectfully petition and propose that the following ordinance to-wit:

ORDINANCE

An Ordinance Granting to Ohio Electric Power Company the right to Erect, Maintain and Operate for the Period of Fifteen Years an Electric Lighting, Power and Heating System in the City of Norwalk, Ohio.

Be it ordained by the Council of the City of Norwalk, Ohio, as follows, to-wit:

Section 1. That the Ohio Electric Power Company (a corporation organized under the laws of the State of Ohio), its successors and assigns, is hereby granted the right to use the streets, alleys, and public places and grounds of said City for the purpose of thereon and therein erecitng, operating and maintaining a system of poles, wires, fixtures, and other necessary apparatus for transmitting electricity and electric current for lighting, power, heating and other purposes for public and private use.

Section 2. All excavations are to be properly guarded, and the City held free and harmless from any and all damages resulting from the constructing, operating and maintaining of said system.

Section 3. The City of Norwalk is hereby permitted the right to use the poles of said Company for stringing wires for fire or police service.

Section 4. The City of Norwalk hereby reserves to itself, and its successors, the granting of similar rights to any other company, corporation or person.

Section 5. All construction work hereafter performed by such Company and the operation hereafter of its property in the City of Norwalk, Ohio, shall be subject to all the terms and conditions of a certain ordinance passed by the Council of the City of Norwalk, on the first day of July, 1924, and being No..... entitled "An Ordinance to Regulate the Construction and Maintenance of Electric Light and Power Wires, Telephone, Signal and Trolley Wires."

Section 6. The Company shall in the exercise of its rights under this Ordinance at all times adopt such new devices or improvements discovered in the science of producing electricity as may work economies in its operations and reduce the cost of current to the consumer.

Section 7. This ordinance shall become binding as a contract upon the City of Norwalk and Ohio Electric Power Company in the event that the said Company shall, within thirty (30) days from the passage of this ordinance, file with the Clerk of said City its written acceptance of the same.

Section 8. This ordinance shall be in full force and effect from and after its approval by the electors of the City of Norwalk in the manner provided by law, its legal publication and acceptance by Ohio Electric Power Company and so continue in effect for and during a period of fifteen (15) years, subject to the conditions herein written.

shall be submitted and referred to the electors of the City of Norwalk for their approval or rejection at the next succeeding regular or general election occurring subsequent to forty (40) days after the filing of this petition; and each for himself, says, "I know the contents of, and have personally signed, this petition, and my residence is correctly stated opposite my name."

We hereby designate D. E. Turkle, E. B. Summers and J. S. Taber, of our number as the Committee to be regarded as filing this petition.

Date Name Residence Ward-Precinct

(Signatures—655 in number—omitted.)

Council proceedings of the City of Norwalk, Ohio, held at the Council Chamber, November 9, 1926:

"City Council Chamber,
Norwalk, Ohio, November 9, 1926.

City Council met this day in adjourned session from November 2, 1926.

Present: L. A. Heston, President of Council, and members Schwartz, Wilson, Burdue, Cole, Call and Fifner. Absent, Ernsthausen at home sick.

Minutes of previous meetings approved as read."

* * * * * *

"The City Auditor reported having caused a copy of initiative Ordinance, by the Ohio Electric Power Company, and sample ballot, to be distributed to every house in the City, as required by law.

The Auditor also certified the official count of ballots on Initiative Ordinance as canvassed by the Mayor and City Auditor. Total vote by precincts for the Ordinance 910, against the Ordinance 2172."

* * * * * *

"On motion of Schwartz, seconded by Fifner, Council adjourned.

.....Pres. of Council.
(Signed) F. G. Warner, Clerk."

City of Norwalk, Ohio
Department of Accounts
F. G. Warner, Auditor
November 9th, 1926.

To the Honorable Council
City of Norwalk, Ohio.
Gentlemen:

Herewith is the abstract of ballot on the Initiative Ordinance, voted on at General Election held November 2nd, 1926.

Copy of Ordinance and sample ballot hereto attached.

Ward 1	Precinct	A	Yes	70	No	156
"	"	B	"	103	"	187
"	"	C	"	78	"	198
Ward 2	"	A	"	48	"	213
"	"	B	"	65	"	183
"	"	C	"	52	"	185
Ward 3	"	A	"	71	"	157
"	"	B	"	37	"	134
"	"	C	"	58	"	216
Ward 4	"	A	"	75	"	173
"	"	B	"	152	"	159
"	"	C	"	101	"	211
				910		2172

Signed F. G. Warner, City Auditor.
Signed A. C. Smith, Mayor.

DEFENDANT'S EXHIBIT D

Norwalk, Ohio
Reproduction Cost New

Transmission Line	
25 miles of 22,000 volt, 3 phase, line, 35 foot poles, 300 ft. spans, #2 copper, nominal charge for right away @ $3,000 per mile.	$ 75,000.00
Substation	
3—100 K. V. A., 22000/2300 volt single phase transformers, lightning arresters, disconnects, fuses, wooden platform, fence,	
2—17¼ K. V. A. voltage regulators, bus bars, insulators, supports, installed.....	$ 5,540.00
Generating Station	
1—200 kilowatt engine generator unit with exciter, switchboard, boiler, stack, in brick building with slate roof.....	$ 48,650.00
Distribution	
453 customers each requiring on an average; 1 span of primary and secondary, 3 wires each; 1/5 of 5 K. V. A. transformer; 1—3 wire service; 1—10 ampere meter @ $66.71 each.....	$ 30,154.00
Miscellaneous	
1—1-ton Chevrolet, 1—Ford with slip on body, 1—Chevrolet roadster, Office equipment, tools, supplies.....	$ 4,800.00
Total reproduction cost new.....	$164,144.00

Present Value

Transmission Line		
65% of $75,000 (reproduction new).....		$ 48,750.00
Substation		
85% of $5,540 (reproduction new).....		$ 4,709.00
Generating Station		
Buildings		
45% of $17,150 (reproduction new).....	$ 7,717.00	
Land $1,500	$ 1,500.00	
Equipment		
60% $30,000 (reproduction new).....	$18,000.00	$ 27,217.00

Distribution

80% of $30,154 (reproduction new).....$ 24,123.00

Miscellaneous. .....$ 3,525.00

Total present value.....$108,324.00

Description of Property and Computations

Transmission Line

Extending from Oberlin Substation, Oberlin, Ohio, to the generating station at Norwalk, Ohio; length 25 miles; 22,000 volts; 3 phase; 60 cycles; #2 aluminum cable; 35,000 volt porcelain insulators; Keystone metal arms with exception of about 2 miles of wooden arms; 35 foot poles, about 50% of which are stubbed; major portion of the line on private right-of-way with short distances on steam railway right-of-way or highways; average spacing 125 feet.

Average unit cost per mile of new 22,000 volt transmission line, 35 foot poles, 300 foot spans, wood arms, #2 copper wire, on private right-of-way $3,000 per mile

Substation

3—100 K. V. A. transformers 22,000/2300 volts outdoor, General Electric Co.

3—Lightning arresters, multigap 22,000 volts

3—disconnect switches, 22,000 volts

3—fuses 22,000 volt

3—17¼ K. V. A. induction voltage regulators, General Electric Co., Type I. R. S.

Miscellaneous, Bus, insulators, supports, frame work, wooden platform and fence.

Transformers.	$2,298.00
Lightning arresters, fuses and disconnects	638.00
Voltage regulators	2,354.00
Misc. and labor of installation	250.00
Total	$5,540.00

Generating Station

Plot of ground sufficient for purposes of small generating station on siding of Wheeling and Lake Erie Railroad, together with right-of-way for egress and ingress across adjoining property.

Brick building with dividing wall 50 ft. wide, 100 ft. long, 16 ft. high to eaves, peaked frame slate covered roof, concrete floor; one addition 21 ft. x 6 ft. x 16 ft. high with flat roof and concrete floor.

1—tandem compound steam engine John T. Noye Mfg. Co.

1—belt driven generator, Allis Chalmers Mfg. Co., #102800, 2300 volts, 50 amperes, 3 phase, 60 cycles, 600 r.p.m.
1—belt driven exciter, Westinghouse Electric & Mfg. Co., #110 D Type S. K., 125 volts, 180 amperes, 1150 r.p.m., #2325793.
1—150 H.P. water tube Sterling boiler.
1—Brick stack 70 feet high.
1—Sheet iron breeching.
5—Switchboard panels for generator control; double throw switch from transmission line supply to generator or vice versa; 2—3 phase oil circuit breaker controls; and 1—1 phase circuit breaker control.

Buildings

50 x 100 x 16 and 21 x 6 x 16 @ 20 cents per cu. ft.	$16,400.00
Wiring.	750.00
Land.	1,500.00
Engine, generator, exciter, switchboard, boiler, stack installed 200 K.W. @ $150. per K. W.	30,000.00
Total	$48,650.00

Distribution, Primarry, Secondary, Transformers, Services and Meters

8.45 pole line miles of primary distribution scaled from distribution map. 2300 volts, 3 phase average #6 copper wire.
8.10 pole line miles of secondary distribution 3 wire, 110/220 volts average #8 copper wire.
13.11 pole line miles consolidated primary and secondary lines.
453 customers scattered over the city

Distribution for one customer

1 pole and span of primary and secondary 3 wire each, 125 foot span	$40.00
1/5 of 5 K. V. A. transformer	10.96
1—3 wire secondary	7.50
1—10 ampere meter	8.25
Average distribution investment per customer.	$66.71

Miscellaneous:

	New	Depreciated
1—1-ton Chevrolet truck	750.00	400.00
1—Ford slip on body	500.00	250.00
1—Chevrolet roadster	450.00	275.00

Tools	100.00	10[illegible]0
Office furniture and fixtures, bins, files, safe	2500.00	2000.00
Supplies on hand	500.00	500.00
Total miscellaneous	4800.00	3525.00

The present value of the property of the Ohio Electric Power Co. used and useful in the generating, supplying and distribution of electric energy to the inhabitants of Norwalk, Ohio, was derived in the following manner:

1. An inspection of the physical property was made to list the major items, to obtain a description of same, and to estimate for each the present actual value in per cent of the present day reproduction value.

2. The present reproduction value was derived by applying present day unit costs, such as cost per mile of transmission line, cost per K. W. of generating equipment, cost of distribution system per customer, etc., to the major items.

3. The present value of the physical property was then derived by applying the percentages, of present value to reproduction value, to the derived reproduction values for the different items.

Made inspection November 7, 1930.

Plant built in 1395.

Transmission Line built in 1905.

DEFENDANT'S EXHIBIT E

IN THE DISTRICT COURT OF THE UNITED STATES FOR THE NORTHERN DISTRICT OF OHIO, WESTERN DIVISION

In Equity No. 1040

The Equitable Trust Company of New York,
Plaintiff,

vs.

City of Norwalk, Ohio,
Defendant.

STIPULATION

It is hereby stipulated and agreed by and between Counsel for plaintiff and defendant that the deposition of Mr. Clayton E. Tucker as the same appears in the printed Record of Proceedings in Quo Warranto in the Supreme Court of Ohio in the case of Ohio Electric Power Company vs. State of Ohio on the relation of Edgar G. Martin, Prosecuting Attorney of Huron County, State of Ohio, Number 21302, pages 48 to 52 inclusive, may be read by the defendant in this case as the testimony of Mr. Clayton E. Tucker in this case with the same effect and subject to the same objection as if Mr. Clayton E. Tucker took the stand in this case and testified under oath, and that the deposition of Mr. John R. Berry as the same appears in the same Record, pages 53 to 55, inclusive, may be read by the defendant in this case as the testimony of Mr. John R. Berry in this case with the same effect and subject to the same objection as if Mr. John R. Berry took the stand in this case and testified under oath, and it is further agreed and stipulated that certification by the Supreme Court of Ohio of the Record from which such deposition shall be read shall be unnecessary, but that plaintiff may check and correct any errors in the reading of such deposition by comparison with the printed copy of such Record in its possession.

Earl F. Boxell,
Counsel for Plaintiff.
W. A. Eversman,
Counsel for Defendant.

DEFENDANT'S EXHIBIT F

O.K. as to form—H. C. L., E. F. B.

Petition in Case of Cutter vs. The Incandescent Light & Power Co., Together With Interrogatories and Form of Contract.

In the Court of Common Pleas of Huron County, Ohio.

Civil Action.

George Cutter, Plaintiff,

vs.

The Incandescent Light and Power Company, of Norwalk, Ohio, Thomas Dunmore, William Huntington, Ed. D. Sawyer, Frank Link, Frederick Colson, Benjamin Niman, Arthur L. Osborn, Isaac W. Bostwick, ... Hester, Charles Suhr, Daniel H. Fox, Robert K. Rood, David C. King, Eugene Smith, William E. Gill, William E. Sidnall, David W. Vail, Delos O. Woodward, James R. Allan, and George Butt,

Defendants.

PETITION

(Filed March 8, 1893, R. K. Rood, Clerk.)

The said plaintiff for his cause of action against the said defendants says that the defendant The Incandescent Light and Power Company of Norwalk, Ohio, is a Corporation duly organized as such under the laws of Ohio and having its principal office and place of business at Norwalk, Ohio; that its capital stock is in the amount of twenty-five thousand dollars; that the other defendants named herein are subscribers to said capital stock and owners of shares therein but in what amounts respectively plaintiff does not know and cannot state; that plaintiff believes and therefore avers the fact to be, that divers other persons unknown to plaintiff are owners of shares of said stock; that the said defendant David W. Vail is the President and Charles Suhr the Secretary of said Corporation; that said Corporation is insolvent and did on or about February 25th, 1893, make an assignment for the benefit of its creditors under the insolvent laws of said state and that proceedings under said assignment were duly begun and are still pending in the Probate Court of said County.

Plaintiff further says that the said defendant Corporation is indebted to this plaintiff upon its certain promissory note duly made by it in form as follows, to-wit:

$200.00. Norwalk, Ohio, Dec. 9th, 1892.

Sixty days after date we promise to pay to George Putter or order, two hundred dollars, with interest at 6% per annum, for value received.

The Incandescent Light & Power Co.,
Per Charles Suhr, Sec'y.

Plaintiff says that there is now due him upon said note from said defendant Corporation the sum of two hundred dollars with interest thereon from December 9th, 1892, that he duly demanded payment thereof, of said Corporation upon the day and date the sums became due, that it then and there refused payment thereof and still refuses payment.

Plaintiff further says that the said defendant Corporation has numerous creditors that their names and places of residence are unknown to him, and that this action is prosecuted in the interest and behalf of all such creditors as well as in the interest and behalf of plaintiff.

Plaintiff further says that he is ignorant of many facts that the Court should know to render a proper decree herein, that knowledge of such facts is in the possession of the said Corporation, its officers or agents and that plaintiff cannot safely proceed to the hearing hereof unless said corporation, its officers or agents are compelled to make disclosures thereof under oath.

Wherefore by reason of the premises the said plaintiff prays that the said Charles Suhr as Secretary or the said David W. Vail as President of said Corporation may be required to answer under oath the interrogatories hereto annexed, that the Court shall find the names and residences of the stockholders of said defendant Corporation with the amount of stock owned by each of them respectively, that the Court shall find and ascertain whether said shares of stock held by each of said stockholders has been fully paid for or otherwise, and if not fully paid for the amounts still due thereon, that an account may be taken of the creditors of said Corporation and the amount due to each of them respectively from said Corporation, that each of said stockholders may be ordered to pay into Court such an amount of money in satisfaction of said indebtedness as shall be in proportion to the amount of stock held by each of said stockholders and all the solvent stockholders, but not

exceeding in amount the par value of stock owned by each, that the Court may order paid from said fund arising from such payments the payment of the costs of this action, including a reasonable fee to plaintiff's counsel, and the claims of all of such creditors as shall come to the knowledge of the Court and for such other, further and different relief as may be just, proper and equitable.

Stephen M. Young,
Att'y for Pl'ff.

State of Ohio, Huron County, ss.

Stephen M. Young, being duly sworn on oath says that he is the duly authorized attorney of the plaintiff in the above entitled action, that the said plaintiff is a non-resident of the State of Ohio and of the County aforesaid but is a resident of Chicago, Illinois; that said plaintiff is not present within said County, and that for that reason this affiant makes oath herein.

Affiant further says that the allegations and averments of fact set forth in the above petition are true as affiant verily believes.

Stephen M. Young.

Sworn to before me and signed in my presence this 9th day of March, A. D. 1893.

Emma Gilbert,
Dept. Clerk.

INTERROGATORIES

1st. Give the name and place of residence of each subscriber to the capital stock of the defendant Corporation, together with the amount of each subscription and the date of subscription?

2d. Give the name of all transferees of stock, the date of the transfer, the name of the transferror and the amount of stock transferred in each instance?

3rd. Give the amount of money paid by each subscriber of stock who have never paid for the stock subscribed, if any such there are, with the amount of each such subscription?

4th. Give the amount of money paid by each subscriber of stock for his stock, and if anything other than money was received by said Corporation for any shares of its capital stock, state what it was, from whom was it received and what was the valuation thereof as agreed upon?

5th. What stockholders, if any, are creditors of said corporation and for what sums respectively?

6th. What amount of money has been received by said Corporation in cash, as and for amounts due from subscribers to its capital stock upon such subscriptions?

7th. What property, if any, has been received, transferred or delivered by or to said Corporation in lieu of money, in payment of subscriptions for its stock?

8th. If any shares of said capital stock have been subscribed for, but are not yet fully paid for, state who the subscribers therefor are and the amount still due thereon?

9th. Give the names, residences of all persons in whose name stock in said Company is now standing, together with the amount now owned by each of said stockholders.

To the Clerk of said Court:

Issue summons in above action for Thomas Dunmore, Frank Link, Frederick Colson, Benjamin Niman, Arthur L. Osborn, Isaac W. Bostwick, ... Hester, Charles Suhr, Daniel H. Fox, Robert N. Rood, David C. King, Eugene Smith, William E. Gill, William E. Sidnall, David W. Vail, Delos O. Woodward, and George Butt, directed to the sheriff of Huron County, Ohio, and for William Huntington and Ed. D. Sawyer, directed to the sheriff of Cuyahoga County, Ohio, and for James R. Allen to sheriff, Summit County, Ohio, also for The Incandescent Light & Power Company of Norwalk, Ohio, a corporation organized under the laws of Ohio and of which David W. Vail is President and Charles Suhr is Secretary, directed to the sheriff of Huron County, Ohio. Make said writ returnable according to law. Endorse. Brought to enforce statutory liability.

Stephen M. Young,
Att'y for Pl'ff.

DEFENDANT'S EXHIBIT G

O.K. as to form—H. C. L., E. F. B.

CONTRACT

This agreement made and entered into in duplicate at Norwalk, Ohio, this 16th day of July, A. D. 1895, by and between The Northern Electric Company, of Norwalk, Ohio, and the City of Norwalk, Ohio, witnesseth, that:

The said Company for the consideration hereinafter appearing and under the terms and conditions and subject to the provisions hereinafter expressed, does hereby promise, covenant and agree to and with the said City, to erect, operate and maintain for the full term of ten (10) years from and after the 1st day of September, A. D. 1895, within the corporate limits of said City for the purpose of lighting the streets, alleys avenues, and other public places thereof, ninety-eight (98) electric arc lamps (or more, if said city should desire them as hereinafter provided) of nominal two thousand candle power and of the newest and latest improved type and equal to any arc lamp now in use in other cities and to be so operated and maintained during all of said period of ten years as to produce and emit therefrom a pure light equal in brilliancy to that produced by the electric arc lamps of any other city; and that all of said ninety-eight arc lamps, and any others that said City may hereafter require, as hereinafter provided for, shall burn and be kept in operation upon each and every night during said term of ten years from one-half hour after sunset until twelve o'clock midnight, standard time.

Said arc lamps shall be supplied at all times with a current of not less than 9 6/10 amperes, requiring four hundred and fifty watts for maintenance, and to be tested at any time whenever the Council of said City may desire it by an inspector, authorized by said Council, by measurements made at the lamp terminals where no sensible resistance is included in series with the arc; and in case resistance is used, it must be excluded in the measurement of the voltage, and the carbon used in said arc lamps shall be of the first grade and quality.

Said Company, in consideration of the premises, hereby promises to, and agrees with said City that during said period, it will furnish said City all the incandescent lights of the newest and best improved kind that are or may be required for lighting all municipal buildings, offices and rooms in said City and that said incan-

descent lights will furnish sufficient light for said buildings, offices and rooms and will be satisfactorily maintained and operated.

In further consideration of the premises, said Company further covenants and agrees with said City that for the purpose of furnishing power and generating electricity for said arc and incandescent lights, it will build and construct in said city and during said period of ten (10) years will continuously keep in operation a first class electric light plant, which shall consist of a brick and stone building of sufficient size and convenient construction, with a brick smoke-stack, to be equipped during all of said period with all the modern appliances for furnishing and maintaining good, regular, continuous and satisfactory lighting service; that said plant shall contain during all of said term of ten years, arc dynamos of a total capacity of at least one hundred and fifty regular electric arc lights and boilers and engines of at least double the amount of power necessary to furnish electricity for and keep in operation all the arc lamps used in said City for such public lighting; and that all of the machinery contained in and about said plant and connected therewith shall be of the best and most improved pattern and kind and shall be kept in as good repair and condition as new, natural wear and tear excepted.

Provided, that all improvements over present modes and methods of producing electric lights for street and municipal purposes, the right to use which shall hereafter and during the time of the existence of this contract, be owned or acquired by said Company, shall be used and applied for the use and benefit of said City in the lighting of the streets, avenues, alleys and other public places under this contract.

Provided, that said Company shall at the request of said City, by and through its Council, under like terms and conditions, erect, operate and maintain at any time within said term of ten years, such electric arc lamps in addition to the ninety-eight hereinbefore prescribed, as said City through its Council may require, said additional lamps and each of them to be ready for operation within thirty (30) days from the time written notice is served by said City upon said Company, or agent or employee thereof having charge of its business in said City, that the same are required, and from the time such additional lamps are in full operation and so long as they are so maintained, the said Company shall receive from said City for each thereof the same compensation as is

hereinafter stipulated for each of said ninety-eight arc lights hereinbefore agreed to be erected and maintained.

Provided, however, that such additional lamps shall be erected, operated and maintained at such points in, along, or upon the streets, avenues, alleys, or other public places within said City as shall be designated by the Council thereof, or by some person thereunto legally authorized by said Council, and the said City through its Council, shall have the privilege of requiring said Company, from time to time, as the necessities of said city require, to change the location of said lamps, including the said ninety-eight hereinbefore mentioned, or any of them, upon payment by said City of the reasonable cost of said change of location, said cost to be determined by the Engineer of said City by estimate thereof before such change is made, and such estimate to be conclusive upon the parties hereto.

Provided further, that the said Company shall have the right to the reasonable and necessary, but not exclusive, use and occupation of the streets, avenues, alleys and other public places of said City for the purpose of erecting, operating and maintaining its said lamps, and the necessary poles, wires and fixtures therefor, and

Provided further, that all loss, damage or cost caused by or arising out of any defective or improper material or appliances used by said Company in erecting, operating, or maintaining said lamps, or from the neglect, carelessness or wantonness of said Company, its agents, or employees in and about the work and labor of erecting, operating or maintaining said lamps, or any of the machinery, implements, appliances or fixtures used in erecting, operating or maintaining the same, or from the use or occupation of said streets, avenues, alleys, or other public places for any purpose by said Company, shall be borne, defrayed and wholly paid by said Company, and the said Company shall save said City harmless therefrom, and defend and protect it against all suits in law or equity founded thereon.

Provided further, that in its said use and occupation of said streets, avenues, alleys and other public places, said Company shall be under the control of the Council of said City, and shall obey all reasonable and proper restrictions and limitations imposed by said Council upon said use and occupation provided that nothing herein contained shall warrant the construction that said Council may in any way impair the obligation of this contract, or prevent said company from carrying out the same.

Provided further that the said City may at its option and upon giving said Company thirty days' written notice of its intention so to do, purchase the said plant to be erected by said Company in said City as hereinbefore stipulated, with all rights, easements, fixtures, appliances and appurtenances used or necessary in the lighting of said City at the fair and reasonable cash value thereof in money as the same shall be at the date of the appraisement hereinafter provided for, to be ascertained and determined as follows, to-wit: Said Company shall select one competent, disinterested and impartial appraiser, conversant with the value of electric light plants and electric light apparatus and appliances; the said City shall select one other such appraiser, and the two appraisers thus selected shall select a third who is likewise competent, impartial and disinterested, and the valuation as fixed in writing by said appraisers or any two of them, shall determine the amount to be paid by said City as the consideration for such purchase; and upon payment thereof being made by said City, it shall by the proper and necessary written instrument to be duly executed by said Company in the event of such purchase, acquire all the rights of said Company in and to said plant with all rights, easements, fixtures, appliances and appurtenances thereunto belonging, and from that time, it shall be the duty of said Company to defend the said City in the enjoyment thereof and the right to the use of all patented inventions connected therewith, and to save said City harmless against all claims and demands for any infringements by reason of such use; Provided, that if after such appraisement is completed, said City for any good cause, does not desire to consummate the purchase of said plant and the property connected therewith, said City shall have the right to withdraw therefrom and not be bound thereby upon paying the reasonable cost and expenses of such appraisement.

Provided further, that all wires, erected by said Company in said City for the purpose of conducting electricity on and along its streets, avenues, alleys, and other public places of said City for such street and public lighting, shall be covered with a water-proof insulation and all of said wires and the fixtures connected therewith for the purposes of such municipal public lighting shall be so located and arranged so as not to interfere with the successful operation of existing telegraph and telephone wires in said City;

Provided further that the said Company shall not assign any right or interest acquired under this contract

without the express consent of said City Council, duly recorded in the records of said City; and provided further, that if said Council should consent to such assignment, the assigns of said Company or its successors in interest shall be as fully bound by this agreement as is the said Company;

Provided further, that should said Company at any time during said term of ten years from any cause within its power to prevent or which by ordinary prudence could have been foreseen, fail for the period of thirty consecutive days to operate and maintain the lamps by it erected under the terms and conditions of this contract, or any considerable portion thereof, or if the said Company shall fail without justifiable reason to furnish additional arc lamps in compliance with the provisions of this contract or agreement, or if the said Company shall fail to save said City harmless against all loss, damages, or costs herein agreed to be by said Company borne, defrayed and paid, or if the said Company shall fail to comply within a reasonable time to such reasonable and proper restrictions and limitations as shall or may be imposed by the Council of said City upon the use and occupation by said Company of the streets, avenues, alleys and public places of said city, then in either or any of such cases of failure as aforesaid, the said Company shall lose and forfeit all rights acquired by it hereunder, and the Council of said City may declare this agreement or contract at an end and from that time, the same shall not be obligatory upon said City, and the determination of said Council upon and as to the facts upon which its rights to declare such forfeiture may exist, shall be final and conclusive upon the parties hereto.

And the said City on its part, and in consideration of the stipulations, promises, and agreements of said Company, does hereby promise, agree and undertake that the said Company shall have the right, under the conditions, terms and provisions of this contract and subject to the limitations herein expressed, to use and occupy the streets, avenues, alleys or other public places of said City for the purpose of erecting, operating and maintaining electric lights for such municipal and public lighting, provided, however, that nothing herein contained shall permit said use or occupation after the expiration of said ten years, or shall unreasonably restrict the Council of said City in its proper and lawful control of said streets, avenues, alleys, or other public places, or shall prevent the said Council from revoking said

Company's said right to so use and occupy said streets, avenues, alleys, or other public places for any reason for which a forfeiture may be declared against said Company hereunder, or from revoking the grant of said right for non-user or mis-user thereof through the failure of said Company to furnish said public, municipal lighting as herein provided for; and provided further that said Company shall bear, defray and pay all or any loss or damage that may be occasioned by reason of said use or occupation, or growing out of the same and save said City free and harmless against the same.

Provided further, that said City shall have the right to use the poles erected and maintained or that may be erected and maintained, by said Company or any of said poles in, along or upon any street, avenue, alley or other public place of said City for the purpose of maintaining a fire-alarm, or for any other public purpose not conflicting with the use of said poles by said Company, and the said use by said City of said poles shall not be subject to any charge by said Company.

And in further consideration of the premises, the said City hereby agrees and undertakes to pay to the said Company upon the first regular meeting of its Council in each month during said term, the full sum of five dollars and eighty-three and one-third cents ($5.83 1/3) for each and every of said arc lamps erected, operated, and maintained under this contract during the whole of the preceding month, and a ratable proportion of such sum for each fraction of such preceding month, provided that such payment shall not be made until all of the ninety-eight arc lamps herein stipulated for, shall have been erected and operated, nor shall more than ninety-eight of such lamps be paid for unless the excess thereof have been erected, operated and maintained, as hereinbefore provided for; and in further consideration of the premises, said City hereby promises, agrees and undertakes to pay to said Company upon the first regular meeting of its Council in each month during said term the full sum of fifteen cents (15c) per thousand watts for all of said incandescent lights erected, operated and maintained under this contract, except in Mayor's Office and Council Chamber, during the whole of the preceding month and a ratable proportion of such sum for each fraction of such preceding month, provided that no more of such incandescent lights shall be paid for than the Council of said City shall require for lighting the municipal buildings, offices and rooms under the terms of this contract; but it is hereby mutually agreed by and

between the parties hereto that the Council Chamber of said city and the office of the Mayor thereof shall both be lighted by said Company free of any charge and that said Company shall light the said Council Chamber and Mayor's Office with incandescent lights of the same kind and equal to the lights used for lighting the other municipal buildings and rooms of said City, and that such lighting will be done satisfactory to the Mayor and Council of said City.

Provided, further, that if from any cause, there shall be a failure of said arc lamps or incandescent lights or any of them, to produce the light required of them, under this agreement, then in such case the said City shall pay only of such agreed sum or sums, such proportion as shall be just and proper, and the determination by the Council of said City as to the amount which shall be just and proper under such circumstances shall conclude the parties hereto.

In testimony whereof, the said Company has caused this agreement to be executed by its President, attested by its Secretary, and sealed with its corporate seal, and the said City has caused it to be signed by its Mayor, attested by its Clerk, and sealed with its municipal seal, all of which is accordingly done the day and year first above written.

The Northern Electric Company.
By George P. Jones, President.
Attest: B. P. Foster, Secretary.

Signed, sealed and delivered in the presence of:
Frank D. Wickham (Seal)
Fred L. Prentiss

The City of Norwalk, Ohio,
By F. W. VanDusen, Mayor. (Seal)
Attest: F. W. Christian, City Clerk.

(Seal) (Seal)

* * * * *

Jump moved that the bond of the Northern Electric Co. be referred to the Finance Committee. Lee seconded. Motion lost. Yeas, 3, Jump, Lee, Wheaton, Nays 6, Bloxham, Moore, Owen, O'Brien, Prentiss, Somers.

Moore moved that the bond of the Northern Electric Co. be approved. Motion carried. Yeas, 6, Bloxham, Moore, Owen, O'Brien, Prentiss, Somers. Nays, 3, Jump, Lee, Wheaton.

* * * * *

Moore moved that the matter of the Washington Street sewer outlet be referred to the street committee. Lee seconded. Motion carried.

On motion of Wheaton, seconded by Jump, the Council adjourned.

A. S. Prentiss, President of the Council.
Attest: F. W. Christian, City Clerk.

DEFENDANT'S EXHIBIT H

O.K. as to form—H. C. L., E. F. B.

FORM OF CONTRACT

This agreement made and entered into in triplicate at Norwalk, Ohio, this 13th day of April, 1905, by and between the City of Norwalk, Ohio, (hereinafter designated as city), and The Cleveland and Southwestern Traction Company (hereinafter designated as contractor) hereby mutually contract, covenant and agree that:

1. The contractor shall erect and install adequate and necessary generating plant and machinery, overhead distributing system and buildings and shall furnish all labor, materials, apparatus, fuel, renewals, repairs and other things necessary for and incident to the successful supply of street lighting service as herein specified. That said street lighting service shall consist of the maintenance and operation, for the full term of ten years beginning on the first day of September, A. D. 1905, of 100 or more arc lights of the kind and description hereinafter designated, each and all of said 100 or more arc lights shall be operated on each and every day of the said ten years, and shall burn from ½ hour after sunset to 1 a.m. standard time.

In consideration of the maintenance and operation of each of said 100 or more arc lights, the said city shall pay to the said contractor the sum of sixty-five dollars

($65.00) per lamp, per year, during the life of this contract.

The bills for the payment of the said price, shall be presented by the contractor for the approval of the Board of Public Service or such other board or officer as shall have charge of the said lighting under the laws of the state of Ohio, at the first regular meeting thereof in each month, and the payments therefor shall be made by the said city as soon thereafter as the proper officials of the said city can take official action thereon. With each monthly bill said contractor shall present an itemized statement showing how many hours any of the lights contracted for hereunder failed to burn, which said statement the city reserves the right to verify before payment is made for the bill then rendered.

2. The initial installation of lamps shall be one hundred (100) in number and the contractor shall install additional lamps from time to time, during the life of this contract, upon the written order of the Board of Public Service, or their successors, and shall maintain and operate the said additional lights until the expiration of this contract, at the price per lamp, per year, as above stated, and in conformity with the schedule of operation, said lamps to be placed in regular operation within thirty days from the date of the order of their installation.

3. All of said 100 or more are lights shall be erected, operated and maintained, by said contractor at such points in, along and upon the streets, alleys, and other public places of said city as shall be designated by said Board of Public Service, or its successors, and the said city reserves the right to order any light changed as to location, the cost of which change shall be paid by the said city to the contractor, but shall not exceed an estimate of the same which shall be made by the City Engineer or some other officer of the said city directed to make the estimate by the Board of Public Service.

4. All are lamps are to be of standard general construction and adapted and adjusted for six and six-tenths (6.6) amperes of alternating current at a frequency of seventy-two (72) cycles per second. Each and all lamps are to be adjusted for and operated with a net expenditure of not less than four hundred watts of electrical energy at the arc, said expenditure of energy to be exclusive of energy required in lamp mechanism, line, station regulators, transformers or other apparatus.

The transforming and regulating apparatus is to be so adjusted that the current on any of the various arc circuits will not vary more than one-tenth of an ampere

from the normal line current of six and six-tenths (6.6) amperes.

Each and all of said lamps shall be adjusted for and be maintained at approximately seventy-two (72) volts across the arc and the sensitiveness of the regulating mechanism must be sufficient to present any wide or continued variation from said voltage.

Each lamp shall be fitted with a light opal or clear inner globe (at the option of the city) and a clear outer globe and the contractor shall at all times maintain the lamps with proper, sound and clean globes.

All carbons shall be of the first grade and quality, shall be of a uniform texture and size and of the most suitable for the kind of service rendered, and must burn uniformly and give a clear, steady light. Samples of the kind of carbon used shall be submitted upon demand, from time to time, and if the said carbons are not equal to the kind required herein, then such deduction shall be made for that month's lighting as the city shall deem just and equitable.

Each lamp shall be fitted with a substantial porcelain lined metal reflector of sufficient size and so shaped as to afford a good distribution of light over considerable distance from the lamp.

All lamps shall be of such design and proportion as not to cast noticeable shadows around or under the lamp. All lamps to be enclosed in weather proof cases of brass, zinc or copper, all exposed parts to be coated with a durable lacquer or enamel. Each lamp to be fitted with an improved type of high voltage insulating hanger and absolute cut-outs so that a defective lamp can be replaced while the circuit is in operation.

All parts of every lamp are to be maintained in as nearly the condition set forth herein as possible, and all repairs are to be made within fifteen days after any defect is noticed or attention is called to the fact by the city.

5. The station apparatus and distributing system must be of such size and character, and must be so installed as to admit of reasonable extension of the system and increase in the number of lamps which may be necessary by reason of the growth of the city. The contractor shall keep in readiness sufficient repair parts to insure against serious or continued breakdowns or failures of generating apparatus or distributing system.

The globes shall be thoroughly cleaned at least once every two weeks, and shall at all times be kept clean and free from movable dirt or deposit of any kind, and if not so kept, one-half of the contract price of the lamps hav-

ing such unclean globes shall be forfeited for the month in which such failure occurs. Provided, however, that no deduction shall be made for any movable dirt or deposit which accumulates between trimmings, but only for movable dirt or deposit which is allowed to remain after trimming.

If for any cause whatsoever, any lamp or lamps fail to consume and utilize electrical energy equal to the standard fixed, a deduction shall be made from the prices to be paid under this contract, which deduction shall be proportionate to the decrease in wattage. Lamps which become extinguished shall be deducted for from the time such failure to furnish lighting occurs; and in case said failure is reported for part of a night, deduction shall be made for the entire night. In case of any failure to maintain the lamps or circuits in the most efficient working condition, or to furnish the required electrical energy as stipulated in these specifications and contract, pro rata reductions on account of such failure, shall be made from the payment due or becoming due to the contractor. If the entire street lighting system, complete circuits or any lamps of the same, shall fail to burn for a period of five or more consecutive days during any of the ten years covered by this contract, a deduction double the pro rata pay for that period, shall be made from the amount due or becoming due to the contractor.

6. The said city shall have, at any time during the life of this contract, the right and privilege to install in the said contractor's generating plant, electrical recording instruments in connection with any or all lighting circuits for street lighting and all proper and necessary connections for said instruments shall be made by the said contractor without expense to the city. The said instruments to be placed in a suitable cabinet fitted with glass doors, which shall be furnished and erected by the said contractor. Said enclosure or cabinet to be well lighted and access to the same shall be had only by the city or its duly authorized agent. All instruments and fittings furnished by the city are to remain its property. The instruments are to be properly fused and connected to circuits on generator side of lighting arresters with suitable choke coils connected on station side of arresters. All connections from the generating plant switch board to the external circuits and the instrument circuits shall be kept in open view and shall be readily accessible throughout their entire length.

The accuracy of any recording instrument owned by the city and maintained in the generating plant will be

checked by a disinterested expert upon written demand of the contractor and when tested upon such demand of the contractor and found to be within five per cent. true, the contractor shall pay the costs of said test, otherwise the costs of such test shall be paid by the city.

The city or its duly authorized agents, shall have the right, at any time, to tap the various circuits at any point for the purpose of making such readings and tests, as may, in the opinion of the city officials, be necessary for determining whether or not the terms of the contract are being complied with. The expense of all tests so made by the city which prove a non-compliance with the provisions of the contract on the part of the contractor, shall be borne by the contractor. All other tests ordered or made on behalf of the city shall be made at the expense of the city.

Provided, that if at any time during the life of this contract, said city of Norwalk should desire to use any lamps of an improved and more modern pattern and power than those installed under the terms of this contract the same may be done, and the expense of such change shall be borne by the city and contractor in such proportion as may be mutually agreed upon.

7. All lamps, unless otherwise specified, shall be hung from suitable steel cable spans, the city reserving the right to demand at any time the use of swinging mast irons in lieu of the steel cable spans for the suspension of not more than twenty per cent of the lamps. Unless otherwise ordered, all lamps shall be hung over the center lines of the street, and shall be so placed at street intersections that each of the intersecting streets may be properly lighted thereby.

In general all arc lamps shall be suspended at elevations ranging from eighteen to twenty-three feet, but the city reserves the right to indicate the exact location and elevation, within said limit of eighteen to twenty-three feet, and also the right to order not more than ten per cent of the lights to an elevation of not to exceed thirty-five feet. All steel cable spans shall be fitted with adjusting suspension belts, and shall be maintained free from excessive sagging. All lamps and wire to be new and no lamps or wire which have previously been used shall be permitted to be erected or installed.

8. The arc lights are to be run on at least two independent circuits, and each circuit shall be loaded as nearly equal as possible, and are to be run so that the down town lights shall be part on one circuit and part on another.

The various circuits to be equipped with suitable switches at the generating plant, so that overhead wiring troubles will not cause a general suspension of lighting service.

On the occurrence of any fire in any district in which said contractor shall have wires, said contractor shall be under the direction of the officers of the fire department, and shall obey any orders given by said officers during said emergency. Great care must be taken by the contractor to maintain the street lighting circuits free and clear from foliage or limbs of trees and from other electrical circuits, or wires. The plant and distributing system generally shall conform to the rules and requirements of the National Board of Five Underwriters and shall be maintained and operated in conformity with said rules and requirements.

9. Within sixty days from the beginning of service under this contract, the contractor shall furnish to the city a complete map of all street lighting circuits showing connections and routes of various circuits and the location of all street lamps. Said map must be corrected within thirty days after any change shall have been made in the location of any of the lamps or circuits, or any additions shall have been added thereto. Said corrections shall be made on a new map, leaving the old one on file in the said city for reference.

10. All wood poles shall conform to the standard specifications of white cedar poles, as adopted by the Northwestern Cedarmen's Association, and particular regard will be given in choosing only the very best for lamp suspension purposes. All proper precaution must be taken in setting and guying to prevent possible disarrangement in alignment, and change from the perpendicular.

No unused cross arms, brackets, unsightly ends, coils of wire, etc., will be permitted, and the workmanship and arrangement shall be done with all due regard to the aesthetic point of view.

All poles and cross arms must be neatly painted within six months from the first of May, 1905, and must be kept in such condition during the life of this contract.

The contractor may employ any poles now on the streets on proper permit from the owner, provided, however, that in so doing there would arise no conflict with the letter or spirit of this contract.

The city may enter upon and use any poles employed under this contract, in the service of the fire and police departments of said city, for the purpose of affixing and supporting wires, fire alarm and police patrol boxes, etc.

11. Any damage done to drains, paving, streets, or other public or private property during the construction or extension of the work, shall be promptly repaired to the satisfaction of the said city. If poles, posts or any other material connected therewith require repairing, in the opinion of the said city, due to unsightly or dangerous condition, the same shall be repaired by said contractor within twenty-four hours after notice from the city, and all such repairs if not made promptly and to the satisfaction of the said city and within the time above mentioned, may be made by the city or its agents and all expense incurred therein may be deducted from money due or to become due the said contractor under this contract.

It is further agreed that if poles or posts at any time during the life of this contract need painting, straightening, etc., the same shall be done by the contractor within a reasonable time from date of written notice to such effect from the city served on said contractor or agent; that if any lamp or lamps are defective or operating improperly and notice be given the contractor to that effect the same shall be repaired or replaced at once to the satisfaction of the city, and if such straightening, painting, or repairing be neglected and said lamps fail to receive prompt attention, then the city as before, may proceed in making all repairs, providing, if necessary, new lamps, and may deduct all expenses incurred thereby from any money due or to become due said contractor under this contract. Provided, however, that all painting of poles shall be done under the requirements of the general ordinances of the said city; and that defective apparatus shall be deducted for as hereinbefore provided.

12. Approval by the city authorities does not excuse defective work, improper material, lamps, supplies, etc., and any such approved material, supplies, lamps, work, etc., which prove defective and do not fully comply with the letter and spirit of this contract shall be reconstructed or replaced by said contractor on request of said city.

13. Said contractor agrees to provide, in addition to the arc lamps mentioned herein, a sufficient number of incandescent lights to properly light the city offices, fire and police stations and water works pumping station, the total number of lights to be installed not to exceed 40, 16 candle power incandescent lights and to maintain the same during the life of this contract during all hours when the regular plant is operated, without charge to the city.

14. Said contractor shall have the right to the reasonable and necessary use and occupation of the streets and other public places in said city for the purpose of erecting, operating and maintaining its said lamps, wires, poles and apparatus, but in such use of said streets, alleys, and other public places said contractor shall be under the control of said city, and shall obey all reasonable and proper restrictions and limitations imposed by said city upon said use, provided, however, that nothing herein contained shall warrant the construction that said city may by such restrictions and limitations impair the obligation of this contract or prevent said contractor from carrying out the same, and provided further that nothing herein contained shall permit said use or occupation of said streets, alleys and other public places after the expiration of this contract, to-wit: August 31, 1915, or shall prevent the said city from revoking said contractor's right to the use of said streets, alleys and other public places, for any reason for which a forfeiture may be declared against said contractor, or its assigns hereunder, or from revoking the grant of said rights for nonuser or misuser thereof through failure of said contractor or assigns to furnish such street, commercial and residence lighting to the said city, and the residents and inhabitants thereof, or otherwise.

The said contractor, at the expiration of this contract, shall upon request of the said city, remove all poles, posts, lamps, wires and other apparatus or material of every kind and description from the streets, alleys and other public places in said city, and restore said streets, alleys and other public places to as good a condition as the same may be at the time of such removal, and in default thereof after thirty days' notice from said city the same may be done by said city or its agents and said contractor shall pay to said city all costs and expenses thereby incurred.

15. Should said contractor or assigns at any time during the life of this contract, from any cause within its power to prevent, or which by ordinary prudence could have been foreseen, fail for the period of fifteen consecutive days to operate and maintain the lamps by him erected for street lighting, or any portion thereof, or should said contractor fail without justifiable reasons to furnish all additional lamps ordered in compliance with the provisions of this contract; or fail to supply all demand for electrical energy for commercial and residence lighting, or fail to save said city harmless against all loss, damage or cost herein agreed to be by said contrac-

tor borne and paid, or fail to comply within a reasonable time with such reasonable restrictions and limitations as may be imposed by said city, then and in either of such cases of failure as aforesaid the said contractor shall lose and forfeit all his rights acquired under this contract.

And in case said contract is forfeited as aforesaid provided, said city shall have the right at once, at the cost and expense of said contractor, to provide temporarily for lighting such highways and public places, or any part thereof with electricity, gas or otherwise, until a new contract can be made by the proper authorities of said city.

16. The said contractor further contracts, covenants and agrees that all loss, damage or costs caused by or arising out of any defective material or appliances used by said contractor in erecting, operating or maintaining said lamps, or said system of lighting, or from neglect or negligence of said contractor, its agents or employees in and about the appurtenances used in erecting, operating or maintaining the said lamps or system, or from the use of streets, alleys and other public places for any purpose by said contractor, shall be borne and paid by said contractor, and the said contractor shall save said city harmless therefrom and defend and protect said city against all suits either in law or equity founded thereon.

17. Any employe of said contractor who continually and arbitrarily violates the letter and spirit of this contract and thereby makes himself disagreeable to said city and its officers, shall, upon request of the said city, be dismissed by said contractor.

18. Said contractor shall, within thirty days hereafter, and at the time this contract is accepted, give a bond in the sum of five thousand dollars ($5,000.00) with sureties to the acceptance of the said city, conditioned for the faithful performance of the conditions of this contract on the part of said contractor to be performed. Said bond so given shall remain in full force and power during the entire period of this contract and for a further time until all property of said contractor has been removed from the streets, alleys and public places of said city and for a further time until all litigation caused by the occupancy of the said streets by said contractor, or which directly or indirectly affects said contractor, shall have reached final judgment and settlement.

19. The said contractor shall file with the clerk of the Council of said city, within thirty days after the awarding of this contract, his written acceptance of same, and thenceforth shall be bound thereby, and this contract

shall not bind said city until such acceptance is filed. Any assignment hereof by said contractor shall not bind said city, nor release said contractor, except there be filed by said assignee a like acceptance of the terms of this contract, and an additional bond by said assignee in like sum and with like conditions.

20. In testimony whereof, the said contractor has caused this agreement and contract to be executed and signed by its president, attested by its secretary and sealed with its corporate seal, and the city has caused it to be signed by its mayor, auditor and board of public service attested by its seal, they thereto being duly authorized, all of which is done the day and year first above written.

The Cleveland & Southwestern Traction Co.,
By F. L. Pomeroy, Pres.
E. F. Schneider, Secy.

C. W. Anderson, Mayor
T. P. Kellogg, Auditor.

Emil O. Friend
A. S. Prentiss
L. E. Doane
Board of Public Service, Norwalk, Ohio.

(Seal of The Cleveland & Southwestern Traction Co.)
(Seal of the Mayor of the City of Norwalk.)
(Seal of City Auditor.)
(Seal of the City of Norwalk.)

Signed in Triplicate
Triplicate

BOND

Know all men by these presents: That we, the Cleveland & Southwestern Traction Company as principal, and The Bankers Surety Company, as sureties are held and firmly bound unto the City of Norwalk, Ohio, in the sum of five thousand dollars ($5000.00), to be paid to said city, its successors or assigns, for which payment well and truly to be made we do hereby bind ourselves, our heirs, successors, assigns, executors and administrators, jointly and severally, firmly by these presents.

Signed by us this 13th day of April, 1905.

The condition of the above obligation is such that whereas the said The Cleveland & Southwestern Traction Company has on this 13th day of April, 1905, entered into a contract with said City of Norwalk, Ohio,

for lighting the streets, etc., now if the said The Cleveland & Southwestern Traction Company shall well, honestly and faithfully discharge and perform all and singular the obligations of said contract as therein specified, then this obligation shall be void; otherwise to be and remain in full force and virtue in law.

The Cleveland & Southwestern Traction Co.,
By F. L. Pomeroy, Pres.
J. O. Wilson, Asst. Secy.
The Bankers Surety Company,
Harvey D. Goulder, President.
Attest: Herman H. Burgess, Secretary.

(Seal of The Cleveland & Southwestern Traction Co.)
(Seal of The Bankers Surety Company.)
(Seal of the City of Norwalk.)

DEFENDANT'S EXHIBIT I

O.K. as to form—H. C. L., E. F. B.

Council Record of the City of Norwalk, Ohio,
Dated April 18, 1905.
(Vol. 8, p. 432.)

COUNCIL RECORDS

"City Council Chamber, Norwalk, Ohio,
April 18, 1905.

The Council of the City of Norwalk, Ohio, met in regular session with President Blume, Clerk Kellogg and Councilmen Berkeley, Chaffee, Cole, Hill, Koenig, Lee and Smith present. Absent none.

President Blume presided and called the meeting to order. The minutes of the preceding meetings were read and approved.

The following acceptance of the contract for lighting the City was read:

'Cleveland, Ohio, April 14, 1905.
To the Clerk of the Council of the City of Norwalk, Ohio.
Dear Sir:

Under clause 19 of the lighting contract signed between our Company and your City under date of April 13th, 1905, we hereby accept the contract and agree to conform to the terms and conditions of same.

Kindly acknowledge receipt of this acceptance and oblige.

Yours very truly,
The Cleveland & Southwestern
Traction Co.,
By F. L. Pomeroy, President,
J. O. Wilson, Asst. Secy.'

On motion of Smith and second of Koenig the letter was ordered spread on minutes of Council.

* * * * *

A Resolution.

Be it resolved by the Council of the City of Norwalk, Ohio, that the bond submitted by the Cleveland & Southwestern Traction Company to secure the proper performance of the contract awarded to them by the Board of Public Service for lighting the streets of the City of Norwalk, Ohio, as signed by the Bankers' Surety Company, of Cleveland, Ohio, as surety, be and the same is hereby approved.

On motion of Smith and second by Cole, the resolution was passed. Yeas, 7, Berkeley, Chaffee, Cole, Hill, Koenig, Lee & Smith. Nays. 0.

On motion of Berkeley and second by Cole, the council adjourned to Friday evening, April 21st, 1905.

B. A. Blume, President of Council.
Attest: T. P. Kellogg, Clerk of Council.''

DEFENDANT'S EXHIBIT J

Approved as to form—E. F. B., H. C. L.

COUNCIL RECORDS OF THE CITY OF NORWALK
January 20, 1914

City Council Chamber,
Norwalk, O., Jan. 20, 1914

City council met in regular session with President Pro Tem Cole presiding, President Holiday acting as Mayor in the absence of Mayor Martin. Clerk Christian and the following members were present: Cole, Fifner, Haas, Heston, Smith, A. C. Smith, C. R. Spurrier. * * *

On motion of Heston, seconded by Fifner, the request of the C. S. & C. Electric Railway Company to withdraw its ordinance asking for a twenty-five year lighting franchise was granted, Ayes, 7. * * *

On motion of Fifner, seconded by Haas, council adjourned.

R. L. Christian, Clerk.

F. B. Cole, President Pro Tem.

I, F. G. Warner, City Auditor and Clerk of Council, of the City of Norwalk, Ohio, hereby certify that the copy hereto attached to be a true copy of the motion passed and recorded in council records Vol. 7 page 145.

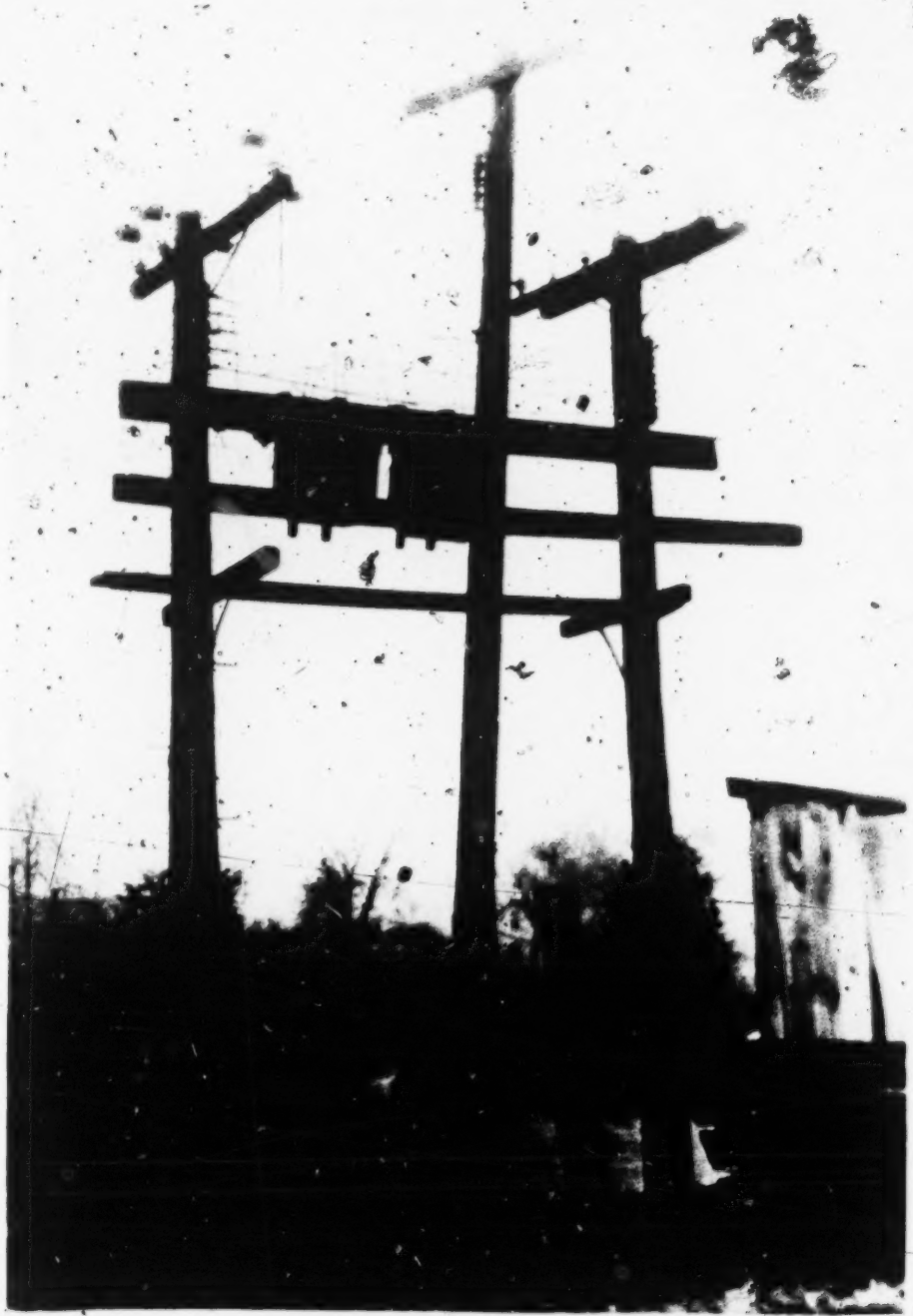
F. G. Warner,
City Auditor and Clerk of Council.

DEFENDANT'S EXHIBIT K

Photograph taken November 11, 1930, showing in the center foreground a pole of the Ohio Electric Power Company, located in front of No. 200 East Main Street in the City of Norwalk, Ohio, with transformer and 2200-volt primary and secondary lines of wires attached thereto.

DEFENDANT'S EXHIBIT L

Photograph taken November 11, 1930, showing in the center foreground a pole owned by the Ohio Electric Power Company standing in front of No. 208 Whittlesly Avenue in the City of Norwalk, Ohio, with 2200-volt primary and secondary wires attached thereto. The pole is broken off at the bottom and leaning in the trees.

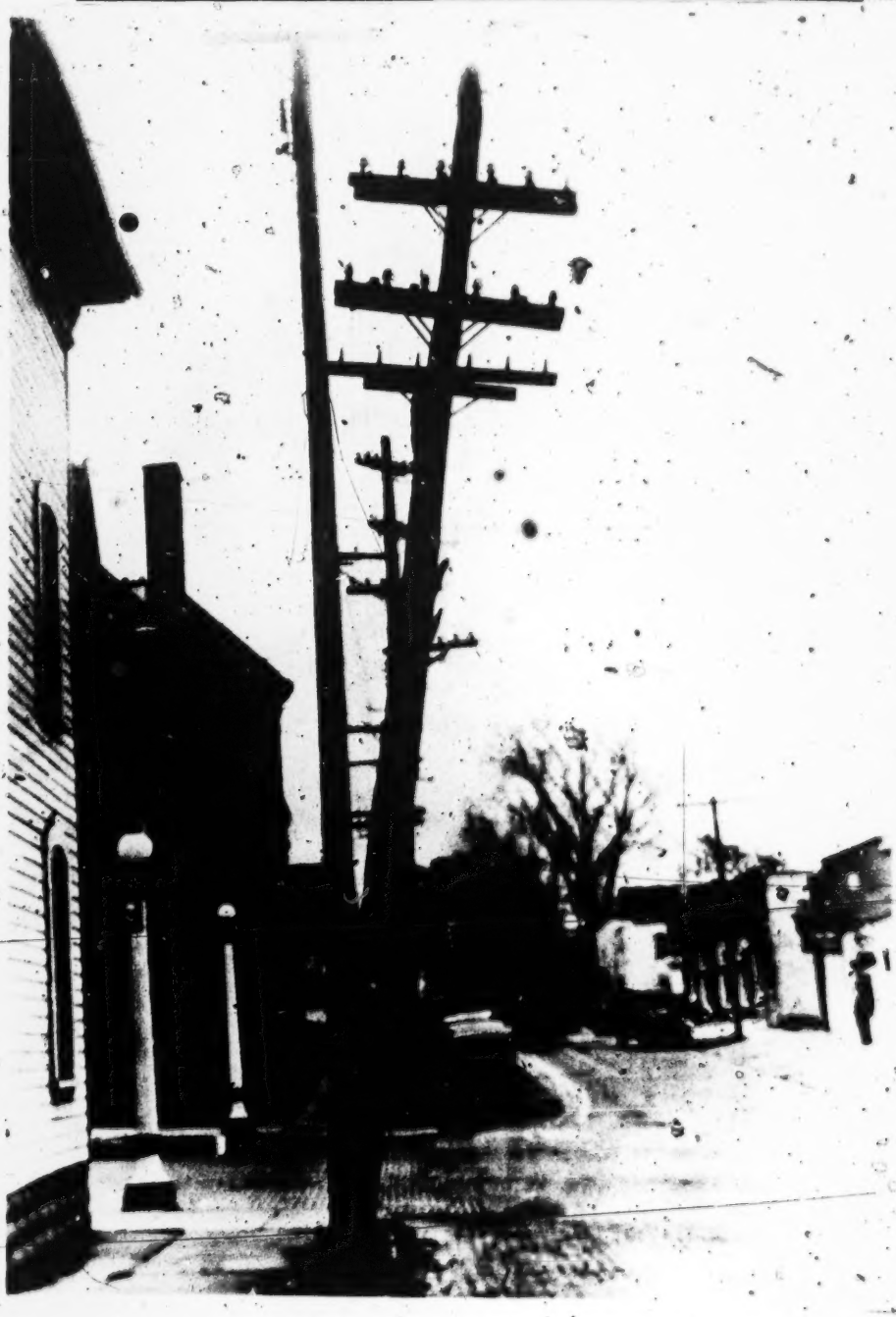


DEFENDANT'S EXHIBIT M

Photograph taken November 11, 1930, showing transformer fixture of the Ohio Electric Power Company on Carey Place to the rear of the Norwalk Foundry Company showing the Ohio Electric Power Company's installation of primary and secondary lines for serving the foundry. The two shorter poles are the poles of the Ohio Electric Power Company. The taller pole in the center is the pole of the electric light system of the City of Norwalk with its primary and secondary

DEFENDANT'S EXHIBIT N

Photograph taken November 11, 1930, showing in the center foreground a pole owned by the Ohio Electric Power Company on West Main Street in the City of Norwalk between the Universalist Church and the telephone company building. The picture shows the 2200-volt primary lines of the Ohio Electric Power Company at a height of about 15 feet above street level.



DEFENDANT'S EXHIBIT O

Photograph taken November 11, 1930, showing in the center foreground a pole owned by the Ohio Electric Power Company on West Seminary Street in the City of Norwalk at the corner of Benedict Avenue. The pole carries 2200-volt primary and secondary lines of wires of the Ohio Electric Power Company. The pole of the Ohio Electric Power Company is leaning over the street. Immediately behind this pole is shown the taller pole of the City of Norwalk Electric Light System.

DEFENDANT'S EXHIBIT P

VALUATION DISTRIBUTION SYSTEM OF OHIO ELECTRIC POWER COMPANY IN THE CITY OF NORWALK

7 pole line miles primary 2200 volt				
13,398 ft. #4 wp	@	.0403	installed	$ 539.94
14,500 ft. #6 "	@	.0282	"	408.90
85,951 ft. #8 "	@	.0194	"	1667.45
8 pole miles of secondary 220/110 volt				
53,000 ft. #8	@	.0194	"	1028.20
5,000 ft. Misc. sizes	@	.0403	"	201.50
400 services	@	4.38	"	1752.00
				$ 5597.99
Transformers power and lighting				
125 trans. totaling 850 kw @ 10.00 per kw				8500.00
Meters power and lighting—installed				
400 meters total 5100 amps @ 1.00 per amp				5100.00
				$13600.00
Line construction distribution only				
410 poles misc sizes averaging 30 ft poles delivered and set @ 8.00				3280.00
Cross arm and secondary racks				1400.00
125 transformer stations less trans. @ 25.00				3125.00
				7805.00
Generating station equipment				
1—150 hp. sterling boiler				8000.00
1—300 hp Corliss engine				8000.00
1—200 kw Allis Chalmers Generator				2000.00
2—G. E. Voltage regulators				800.00
3—100 kw transformers @ 735.00				2205.00
1—Building 100 ftx50 ftx16 ft and				
1—Building 21 ftx6ftx16ft @ .16 per cu. ft.				13022.00
				34027.00
Depreciation				
Wire $5597.99 @ 60%				2239.20
Trans. and meters	$13600.00	@	50%	6800.00
Line construction	$ 7805.00	@	80%	1561.00
Building and equip.	$34027.00	@	80%	6805.40
				17405.60
Land				500.00
Cost of Reproduction New less Depreciation				$17905.60

DEFENDANT'S EXHIBIT Q

Norwalk, Ohio
Reproduction Cost New

Transmission Line	
25 miles of 22,000 volt, 3 phase, line, 35 foot poles, 300 ft. spans, #2 copper, nominal charge for right away (Mr. Insull's substitute line) @ $2,000 per mile	$ 50,000.00
Substation	
3—100 K. V. A. 22000/2300 volt, single phase transformers, lightning arresters, disconnects, fuses, wooden platform, fence, (accepting Mr. Insull's estimate without check)	
2—17¼ K. V. A. voltage regulators, bus bars, insulators, supports installed (accepting Mr. Insull's estimate without check)	5,540.00
Generating Station	
1—200 kilowatt engine generator unit with exciter, switchboard, boiler, stack, in brick building with slate roof	19,250.00
Distribution	
453 customers each requiring on an average; 1 span of primary and secondary, 3 wires each; 1/5 of 5 K. V. A. transformer; 1—3 wire service; 1—10 ampere meter @ $66.71 each (accepting Mr. Insull's estimate which is apparently too high)	30,154.00
Miscellaneous	
1—1-ton Chevrolet, 1—Ford with slip on body, 1—Chevrolet roadster, Office equipment, tools, supplies (accepting Mr. Insull's estimate)	4,800.00
Total reproduction cost new	$109,744.00
Reproduction cost less depreciation	
Transmission Line	
25% of $50,000 (reproduction new)	$ 12,500.00
Substation	
85% of $5,540 (reproduction new) (accepting Mr. Insull's estimate without check)	4,709.00
Generating Station	
Buildings	$1,000.00
Land $1,500	1,500.00

Equipment—Entirely depreciated	0.00	2,500.00
Distribution		
50% of $30,154 (reproduction new).....		15,077.00
Miscellaneous.....		3,525.00
Total Reproduction Cost less Depreciation		38,311.00

DEFENDANT'S EXHIBIT T

(Filed Mar. 13, 1922, B. C. Miller, Clerk U. S. District Court, N. D. O.)

IN THE DISTRICT COURT OF THE UNITED STATES FOR THE NORTHERN DISTRICT OF OHIO, EASTERN DIVISION

In Equity No. 690

General Electric Company,

Complainant,

vs.

The Cleveland, Southwestern and Columbus Railway Company,

Defendant.

PRELIMINARY REPORT OF RECEIVER

To Honorable D. C. Westenhaver, Judge, District Court of the United States, for the Northern District of Ohio, Eastern Division, Cleveland, Ohio.

F. H. Wilson, Receiver, in pursuance of the order appointing the Receiver in this Cause, submits this preliminary report as to the condition of the property of The Cleveland, Southwestern and Columbus Railway Company; also general balance sheet as prepared by Haskins & Sells, Certified Public Accountants.

The Cleveland, Southwestern and Columbus Railway is an Electric Railway 209.6 miles long, all single track with the exception of 6.8 miles of double track in the Cities of West Park and Elyria. There is one Division,

from—West Park to Bucyrus,
Seville to Wooster,
West 105th St. Cleveland to Puritas Springs,

and one from—West 117th St. Cleveland to Norwalk,
Elyria to Grafton,
Elyria to Lorain,
Penfield Junction to Amherst,
Oberlin to Wellington.

It does a passenger and express business over the entire property, and a freight business between Cleveland and Bucyrus, Seville and Wooster, Cleveland and Berlin Heights, including the following intermediate towns: Florence-Birmingham-Wellington-Elyria.

The earnings of the road are being materially affected by motor bus and motor truck competition, which is increasing daily. At present motor buses are operated as follows:

Between Cleveland and Elyria
Cleveland and Fair View
Cleveland and Brunswick
Cleveland and Ridgeville
Elyria and Grafton
Elyria and Oberlin
Mansfield and Bucyrus
Berea and Stop 14, West Park
Seville and Creston
Wooster and Ashland
Polk and Ashland

Motor trucks handle freight between,
Cleveland and Elyria
Mansfield and Bucyrus
Cleveland and Wooster.

The following is a list of franchises under which The Cleveland, Southwestern and Columbus Railway Company is operating as a Railroad; also Power and Light Franchises:

The date of expiration of the franchises as shown thereafter, is the date appearing on the face of the franchises, and is given without prejudice to any rights the Company or the Receiver may or might have after such date in respect thereto.

RAILROAD FRANCHISES

Southern Division

Location	Mileage	Date of Grant	Date of Expiration	Fare	Authority Under Which Granted
West Park—117th St. to Stop 14	5	5-29-1899	5-29-1924	5c	Municipality
West Park—Puritas Springs	4	4-17-1899	4-17-1924	5c	Municipality
Cleveland, City	2	4-17-1899	4-17-1924	5c	County Com.
Cuyahoga County, Stop 14 to Berea	3.7	12-16-1899	12-16-1924	(5c Berea to Stop 21 / 5c Stop 21 to Stop 7)	County Com.
Cuyahoga—Berea to County Line	7	11-24-1900	11-24-1925	3c Mi.	County Com.
Medina County Line to Medina	8.7	12- 3-1900	12- 3-1925	3c Mi.	County Com.
Medina Village	1.9	5-13-1902	5-13-1927	5c	Municipality
Medina County—Medina to Seville	8.9	12-18-1901	12-18-1926	3c Mi.	County Com.
Seville Village (Wooster Div.)	.4	9-27-1902	9-27-1927	5c	Municipality
Medina County—Seville to Creston	1.8	12-18-1901	12-18-1926	3c Mi.	County Com.
Creston Village	.9	10-10-1902	10-10-1927	5c	Municipality
Wayne County—Creston to Wooster	11.6	10- 7-1902	10- 7-1927	3c Mi.	County Com.
Wooster City	1.7	12-30-1901	12-30-1926	5c	Municipality
Seville Village (West)	.5	5- 6-1908	5 -6-1933	5c	Municipality
Medina County to Wayne County Line	)	1- 5-1907	1- 5-1932	3c Mi.	County Com.
Wayne County to West County Line	) 28.6	7- 9-1906	7- 9-1931	3c Mi.	County Com.
Ashland County, East	)	7-21-1906	7-21-1931	3c Mi.	County Com.
Ashland City	2	12- 3-1906	12- 3-1931	5c	Municipality
Ashland County, West	8	7-21-1906	7-21-1931	3c Mi.	County Com.
Richland County—Ashland to Mansfield	4.2	6- 3-1906	6- 3-1931	3c Mi.	County Com.
Mansfield City	2.9	Traffic Agreement with R.P.S.Co.		8c	Municipality
Richland County—Mansfield-Crestline	11.1	4-20-1901	4-20-1926	3c Mi.	County Com.
Crestline Village	1	4- 8-1901	4- 8-1926	5c	Municipality
Crawford County—Crestline to Galion	8.8	3-11-1901	3-11-1926	10c	County Com.
Galion City	1.6	5-10-1901	5-10-1926	5c	Municipality
Crawford County—Galion to Bucyrus	10.1	9-29-1896	Perpetual	(20c St. / 35c RT	County Com.
Bucyrus City	1.2	4- 5-1910	4- 5-1935	5c	Municipality
West Park—Lorain Ave.	3	7-31-1897	7-31-1922	5c	Municipality
Fairview Village—West to Stop 18	3	2- 2-1895	2- 2-1920	5c	Municipality
North Olmsted—Stop 18 to County Line	5.8	10-17-1914	10-17-1939	15c	Municipality
Lorain County to Elyria City Limits	6	8-16-1914	8-16-1939	15c	County Com.
Elyria City	5.6	11- 1-1916	11- 1-1941	5c	Municipality
Lorain County—Elyria to Oberlin	6.3	4- 6-1897	4- 6-1922	3c Mi.	County Com.
Oberlin Village	2.6	2- 3-1915	2- 3-1940	5c	Municipality
Lorain County—Oberlin, West	7	12- 1-1900	12- 1-1925	3c Mi.	County Com.
Erie County to West Line	8	1-30-1901	1-30-1926	3c Mi.	County Com.
Berlin Heights Village	.7	3-27-1901	3-27-1926	5c	Municipality
Huron County	6.5	2- 5-1901	2- 5-1926	3c Mi.	County Com.
Norwalk City	1.5	Traffic Agreement with L.S.E.Co.		5c	Municipality
Lorain County—Elyria to Lorain	4.8	8-25-1899	2-25-1924	3c Mi.	County Com.
Lorain County—Penfield Jct. to Amherst	3.6	6-17-1899	6-17-1924	3c Mi.	County Com.
Amherst Village	.4	5-31-1899	5-31-1924	5c	Municipality
Lorain City	3.75	6- 8-1899	6- 8-1924	5c	Municipality
Lorain County—Elyria-Grafton	5.7	10-30-1900	10-30-1925	3c	County Com.
Grafton Village	.5	2- 7-1901	2- 7-1926	5c	Municipality
Lorain County—Oberlin-Wellington	7.3	3-10-1900	3-10-1925	3c Mi.	County Com.
Wellington Village	.3	11-16-1899	11-16-1924	5c	Municipality

POWER AND LIGHT FRANCHISES

Location	Nature	Date of Grant	Date of Expiration
North Olmsted Village	Street Lighting		
	Domestic and Commercial	10-13-1919	10-13-1929
Dover Village	Street Lighting	6-15-1915	6-15-1925
Dover Village	Domestic and Commercial	6-15-1915	6-15-1940
Rittman Village	Street Lighting	2-18-1914	2-18-1924
Rittman Village	Domestic and Commercial	5- 1-1916	5- 1-1926
Crestline Village	Street Lighting	8-26-1915	8-26-1925
Crestline Village	Domestic and Commercial	8-26-1915	8-26-1940
Creston Village	Street Lighting	11- 7-1921	11- 7-1931
Creston Village	Domestic and Commercial	11- 7-1921	11- 7-1931
Strongville Village	Street Lighting	6-25-1915	6-25-1925
Valley City Village	Street Lighting	12-27-1917	12-27-1927

In addition to above power and light franchises, considerable power and light is furnished rural districts. Gross Earnings, Power and Light—year 1921, $179,477.71

CONDITION OF PROPERTY

Track and bridges in good operating condition.

This season's track maintenance requirements, 60,000 ties, 1½ miles rail, 20 miles ballast.

Five (5) carloads of bridge timbers, in addition to material on hand. This, with the working of bridge gang of ten men until Fall will put all of our bridges in first-class condition.

11,500 rail bonds required to be installed. We have one gang of three men on this work, and expect to start another gang within thirty days. It will take about four months to put the track bonding in good shape.

All buildings and shop equipment in good operating condition.

Car Equipment:

We have 56 Passenger Cars
1 Funeral Car
13 Freight Motor Cars

10 Trailer Box Cars
8 Trailer Flat Cars.
5 Trailer Dump Cars
6 Snow Plows and Sweepers
5 Line Cars
2 Work Cars

Total 106 Cars

The equipment is in good operating condition. Thirty (30) cars should be put through the paint shop this season.

Our passenger cars weigh from twenty-five to thirty-seven tons each, with the result a number of the cars are too heavy for the service required of them on our Branch Lines, resulting in expensive operation, due to excessive consumption of power, maintenance of equipment and maintenance of track.

The purchase of twelve (12) light weight cars of approximately fifteen tons each at a cost of approximately $150,000.00 will result in a saving in operation of $40,000.00 per year. The Engineers of the General Electric and Westinghouse Companies have also made a complete study of our operating conditions, and agree in our estimates as to the saving by the use of light weight cars.

Power House:

Our Elyria Power Plant, at which point we generate all of our current used in operating the railroad, as well as furnishing power and light commercially, has for several years been detrimental to the Company's operation, by reason of obsolete equipment and lack of spare equipment to take care of requirements in case of serious breakdown, or failure of present equipment. In addition the plant is not equipped for economical operation, owing to lack of coal, ash handling, or stoker equipment, also inadequate water supply. A fair percentage of the equipment in the plant is so old that extensive repairs must be made and considerable new equipment purchased immediately if the plant is to continue in operation at low efficiency. A number of the boilers require heavy repairs, and some of the turbine equipment cannot be depended upon for service unless heavy repairs are made. It is estimated it will cost from $475,000 to $500,000 to put the plant in first-class condition, and even then it is felt we will not be able to generate current as cheaply as it can be purchased.

To purchase power it will be necessary for us to change our system from twenty-five to sixty cycle power, the advantages of which are as follows:

Better service to commercial consumers, due to better lighting current and cheaper prices of equipment.

Same frequency as other Power Companies in this territory, making it practicable to sell, buy or exchange power for mutual convenience.

Permit us to bid to much better advantage for new power and light business.

It will cost from $400,000 to $450,000 to change our equipment at sub-stations, install one additional sub-station needed, change motors and other electrical appliances in industrial service (account of changing from twenty-five to sixty cycle power), install automatic switching at three sub-stations and semi-automatic switching at eight sub-stations, which will eliminate labor costs. The installation of this new equipment will also result in a large decrease in our present maintenance costs, due to replacing partially worn-out equipment with new equipment.

It is estimated there will be a saving of from $50,000 to $75,000 per year, not including salvage from the present power plant, to purchase power rather than to generate it ourselves.

The Cleveland Electric Illuminating Company of Cleveland, and the Ohio Public Service Company of Elyria and Mansfield, are both in a position to furnish the required power.

PERSONAL INJURY AND OTHER ACCIDENT CLAIMS

There are sixty-seven (67) law-suits, aggregating $755,657.10, filed against the Company. In addition there are three hundred and thirty (330) other claims, not in suit, covering accidents, including employes, the majority of which are of a minor nature. It is estimated that all of the above claims can be disposed of for not to exceed $90,000.00.

This does not include claims referred to in the General Balance Sheet as prepared by Haskins & Sells, covering settlements which had already been made, and were being taken care of on the monthly payment basis. There are thirteen of these cases, on which $25,875.00 is still due, $15,325.00 having already been paid in partial settlement.

Respectfully submitted,
(Signed) F. H. Wilson, Receiver.

The United States of America,
Northern District of Ohio, ss:

I, F. J. Denzler, Clerk of the District Court of the United States within and for said District, do hereby certify the foregoing to be a true copy of the portion of the preliminary report of Receiver filed in the above-entitled cause in said Court, and that the same is correctly copied from the original now on file in my office.

Witness my official signature, and the seal of said Court at Cleveland, in said District, this 5th day of December, A. D. 1930, and in the 155th year of the Independence of the United States of America.

F. J. Denzler, Clerk,
(Seal) By Ruth Strain, Deputy Clerk.

DEFENDANT'S EXHIBIT U

"Lease, by Frank Lake and Georgia Rexford to The Norwalk Incandescent Light Company, dated September 22, 1890.

"This agreement Witnesseth, that we, Frank Lake and Georgia Rexford hereby lease to The Norwalk Incandescent Light Co. the following described premises, situated in the City of Norwalk, County of Huron and State of Ohio, and being 40 feet off of the East end of Lot 934 situate on the southeast corner of Benedict Avenue and Seminary Street with the privilege of a drive on East end of said lot 934, with the appurtenances thereto, for the term of five years from the 22nd day of Sept. 1890, at a rental of Two Hundred Dollars per annum payable quarterly with the privilege of a revival of said term, providing said premises be not sold during said five yrs. Said Lessee agrees to pay said rent as above stipulated, to not commit or suffer waste, to not use said premises for any unlawful purposes, and at the

expiration of this lease to surrender said premises in as good condition as they now are or may be put, reasonable wear incident to the use for which the same is to be put, excepted. The said Lessors agree to permit said Lessee to erect such building or buildings as may be necessary for the use of an Incandescent Light Plant, excavating and removing all necessary dirt for the construction of proper foundations therefor, and to have the use of any or all buildings thereon, and for such purposes said Lessee shall quietly hold and occupy said premises during said term without any hindrance or molestation by said Lessors, their heirs or any persons lawfully claiming under them.

"It is further mutually agreed between the parties hereto that said Lessee shall have the privilege of purchasing said premises upon such terms and conditions as may be hereafter determined upon between the parties hereto. And in no case shall said premises be sold unless the privilege to purchase said premises upon the proposed terms be first given to said Lessee. And said Lessee shall, within sixty days after due notice of such intended sale, elect to take said premises upon the same terms of said intended sale. Said Lessee reserves the right to remove any and all improvements placed thereon by it, within a reasonable time after expiration of said Lease.

"In witness whereof we hereunto set our hands this 22nd day of September, 1890.

Frank Lake and
Georgia Rexford.
Per John W. Rexford, Agent
Incandescent Light Co.
per Charles Suhr.

Witnesses:
H. S. Mitchell,
F. A. Young.

"State of Ohio, Huron County, ss.

"Personally appeared before me, John Rexford, the duly authorized agent of the Lessors herein, and Charles Suhr, one of the members of said Lessee, and duly authorized to execute the aforegoing instrument, and acknowledged the same to be their free act and deed, for the purposes therein set forth.

Henry D. Mitchell,
(Seal) Notary Public.

"Received October 4, 1890
at 3:35 P.M.
Recorded October 16, 1890.
R. A. Bloomer, Recorder.

"Assignment:—

"The Lessee further agrees to furnish all the wiring and light necessary for the lighting of the residence of Mrs. Lake on Benedict Avenue, but not to exceed 6 16 CP lights, during the continuance of this Lease.
(Lease Record, Vol. 2—page 180.)

"The State of Ohio, Huron County, ss.

"I hereby certify that the above and foregoing is a true and correct copy of the Lease given by Frank Lake and Georgia Rexford to The Norwalk Incandescent Light Co. as the same appears on the records of this office, being recorded in Lease Record Vol. 2, page 180. In Testimony Whereof, I have hereunto set my hand and official seal at Norwalk, Huron County, Ohio, this 11th day of July, A. D. 1927.

Ann Davies Rebhan,
(Recorder's Seal) Recorder.
By Helen Whitbeck, Deputy."

CERTIFICATE OF CLERK

Northern District of Ohio, ss.

I, F. J. Denzler, clerk of the United States District Court within and for said district, do hereby certify that the foregoing printed pages contain a full, true and complete copy of the record and all proceedings in this cause, including the petition for appeal, assignment of errors, order allowing appeal and the bond on appeal, in accordance with the praecipe for transcript filed herein, the originals of which remain in my custody as clerk of said court.

There is also attached to and transmitted herewith the citation issued and allowed herein.

In testimony whereof, I have hereunto signed my name and affixed the seal of said court, at Toledo, in said district, this 10th day of February, A. D. 1932, and in the 156th year of the Independence of the United States of America.

F. J. Denzler, Clerk,

By K. V. Wilson,
Deputy Clerk.

(Seal)